By Mr. MORGAN: A bill (H. R. 16113) for the relief of Jennie Williams; to the Committee on Claims.

By Mr. MORROW: A bill (H. R. 16114) granting an increase of pension to William Felter; to the Committee on Pensions.

By Mr. PARKER: A bill (H. R. 16115) granting an increase of pension to Mary A. Hilton; to the Committee on Invalid Pensions.

By Mr. SCHAFER: A bill (H. R. 16116) granting a pension to Annie Duggan; to the Committee on Invalid Pensions.

By Mr. STRONG of Kansas: A bill (H. R. 16117) to authorize the payment of an indemnity to the owners of the British steamship *Kyleakin* for damages sustained as a result of a collision between that vessel and the U. S. S. *William O'Brien;* to the Committee on War Claims.

By Mr. TABER: A bill (H. R. 16118) granting a pension to Elida Irene Hodder; to the Committee on Invalid Pensions.

By Mr. VESTAL: A bill (H. R. 16119) granting an increase of pension to Almira Justice; to the Committee on Invalid Pensions.

By Mr. VINCENT of Iowa: A bill (H. R. 16120) for the relief of Mildred L. Williams; to the Committee on Claims.

By Mr. VINCENT of Michigan: A bill (H. R. 16121) granting a pension to Margaret S. Colf; to the Committee on Invalid Pensions.

By Mr. WAINWRIGHT: A bill (H. R. 16122) for the relief of E. Schaaf-Regelman; to the Committee on Claims.

By Mr. WASON: A bill (H. R. 16123) granting an increase of pension to Delta J. Dressler; to the Committee on Invalid Pensions.

By Mr. WURZBACH: A bill (H. R. 16124) granting a pension to Beverly A. Foster; to the Committee on Pensions.

Also, a bill (H. R. 16125) granting a pension to Zereldia A. Robinson; to the Committee on Pensions.

By Mr. MORIN: Joint resolution (H. J. Res. 373) authorizing the Secretary of War to receive for instruction at the United States Military Academy at West Point, Bey Mario Arosemena, a citizen of Panama; to the Committee on Military Affairs.

By Mr. W. T. FITZGERALD: Resolution (H. Res. 285) to pay to Norman E. Ives $1,200 for extra and expert services to the Committee on Invalid Pensions; to the Committee on Accounts.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

8194. By Mr. CHALMERS: Petition signed by citizens of Toledo, Ohio, protesting against discriminations practiced against certain nations and nationals of the Caucasian race and desiring and demanding the abatement thereof; to the Committee on Immigration and Naturalization.

8195. By Mr. O'CONNELL: Petition of Dixie Post, No. 64, Veterans of Foreign Wars of the United States, National Sanatorium, Tenn., favoring the passage of the Rathbone bill (H. R. 9138); to the Committee on Pensions.

8196. By Mr. PEAVEY: Petition from the Superior Trades and Labor Assembly at Superior, Wis., demanding that the same consideration be extended to radio station WCFL as is extended the other broadcasting stations, and that it also be granted the desired unrestricted wave length; to the Committee on Interstate and Foreign Commerce.

8197. Also, petition from the United Brotherhood of Carpenters and Joiners of America, Local Union No. 755, Superior, Wis., demanding that the Federal Radio Commission place WCFL, radio station of Farmer-Labor, to its former position, frequency, unlimited power, and time of operation without interference from other stations; to the Committee on Interstate and Foreign Commerce.

8198. By Mr. ROMJUE: Petition of Dixie Post, No. 64, Veterans of Foreign Wars of the United States, favoring the passage of House bill 9138; to the Committee on Pensions.

SENATE

THURSDAY, *January 10, 1929*

(Legislative day of Monday, January 7, 1929)

The Senate met in open executive session at 11 o'clock a. m., on the expiration of the recess.

ENROLLED BILLS SIGNED

The VICE PRESIDENT, as in legislative session, announced his signature to the following enrolled bills, which had been signed previously by the Speaker of the House of Representatives:

S. 3779. An act to authorize the construction of a telephone line from Flagstaff to Kayenta on the western Navajo Indian Reservation, Ariz.; and

S. 4616. An act to legalize the existing railroad bridge across the Ohio River at Steubenville, Ohio.

REPORT OF GEORGETOWN BARGE, DOCK, ELEVATOR & RAILWAY CO.

As in legislative session,

The VICE PRESIDENT laid before the Senate a communication from Hamilton & Hamilton, attorneys, transmitting, pursuant to law, the annual report of the Georgetown Barge, Dock, Elevator & Railway Co. for the year ended December 31, 1928, which was referred to the Committee on the District of Columbia.

OFFICERS DELINQUENT IN RENDERING ACCOUNTS

The VICE PRESIDENT laid before the Senate a communication from the Comptroller General of the United States, submitting, pursuant to law, a report showing the officers of the Government who were delinquent in rendering or transmitting their accounts to the proper offices in Washington during the fiscal year ended June 30, 1928, the cause therefor, and whether the delinquency was waived, together with a list of such officers who upon final settlement of their accounts were found to be indebted to the Government and had failed to pay the same into the Treasury of the United States, which was referred to the Committee on Claims.

DISPOSITION OF USELESS PAPERS

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting, pursuant to law, lists of papers and documents on the files of the Treasury Department which are not needed in the transaction of public business and have no permanent value or historic interest, and asking for action looking toward their disposition, which was referred to a Joint Select Committee on the Disposition of Useless Papers in the Executive Departments. The Vice President appointed Mr. REED of Pennsylvania and Mr. SIMMONS as members of the committee on the part of the Senate.

MULTILATERAL PEACE TREATY

The Senate, in open executive session, resumed the consideration of the treaty for the renunciation of war transmitted to the Senate for ratification by the President of the United States, December 4, 1928, and reported from the Committee on Foreign Relations, December 19, 1928.

Mr. BORAH. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	McLean	Sheppard
Barkley	Fletcher	McMaster	Simmons
Bayard	Frazier	McNary	Steiwer
Bingham	George	Mayfield	Stephens
Black	Gerry	Metcalf	Swanson
Blaine	Glass	Moses	Thomas, Idaho
Blease	Glenn	Neely	Thomas, Okla.
Borah	Greene	Norbeck	Trammell
Brookhart	Harris	Nye	Tydings
Broussard	Harrison	Oddie	Tyson
Bruce	Hawes	Overman	Vandenberg
Burton	Hayden	Phipps	Wagner
Capper	Heflin	Pittman	Walsh, Mass.
Caraway	Johnson	Ransdell	Warren
Copeland	Jones	Reed, Mo.	Waterman
Couzens	Kendrick	Reed, Pa.	Watson
Curtis	Keyes	Robinson, Ark.	Wheeler
Deneen	King	Robinson, Ind.	
Dill	La Follette	Sackett	
Edge	McKellar	Schall	

Mr. CURTIS. I was requested to announce that the Senator from West Virginia [Mr. GOFF], the Senator from Nebraska [Mr. NORRIS], the Senator from Utah [Mr. SMOOT], and the Senator from Minnesota [Mr. SHIPSTEAD] are absent on official business.

Mr. DILL. I desire to announce that Senators FRAZIER, PINE, LA FOLLETTE, WHEELER, and THOMAS of Oklahoma, members of the subcommittee of the Committee on Indian Affairs, are in attendance upon a hearing of the subcommittee.

Mr. GERRY. I wish to announce that the senior Senator from South Carolina [Mr. SMITH] is necessarily detained from the Senate by reason of illness in his family.

The VICE PRESIDENT. Seventy-seven Senators having answered to their names, a quorum is present.

Mr. BORAH. Mr. President, I am going to ask to have a formal reading of the treaty. It has not as yet been read, and we may, I think, have that done now.

The VICE PRESIDENT. The Secretary will read the treaty.

The legislative clerk read the treaty, as follows:

THE PRESIDENT OF THE GERMAN REICH, THE PRESIDENT OF THE UNITED STATES OF AMERICA, HIS MAJESTY THE KING OF THE BELGIANS, THE PRESIDENT OF THE FRENCH REPUBLIC, HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA, HIS MAJESTY THE KING OF ITALY, HIS MAJESTY THE EMPEROR OF JAPAN, THE PRESIDENT OF THE REPUBLIC OF POLAND, THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC,

Deeply sensible of their solemn duty to promote the welfare of mankind;

Persuaded that the time has come when a frank renunciation of war as an instrument of national policy should be made to the end that the peaceful and friendly relations now existing between their peoples may be perpetuated;

Convinced that all changes in their relations with one another should be sought only by pacific means and be the result of a peaceful and orderly process, and that any signatory Power which shall hereafter seek to promote its national interests by resort to war should be denied the benefits furnished by this Treaty;

Hopeful that, encouraged by their example, all the other nations of the world will join in this humane endeavor and by adhering to the present Treaty as soon as it comes into force bring their peoples within the scope of its beneficent provisions, thus uniting the civilized nations of the world in a common renunciation of war as an instrument of their national policy;

Have decided to conclude a Treaty and for that purpose have appointed as their respective Plenipotentiaries

THE PRESIDENT OF THE GERMAN REICH:
Dr. Gustav Stresemann, Minister for Foreign Affairs;

THE PRESIDENT OF THE UNITED STATES OF AMERICA:
The Honorable Frank B. Kellogg, Secretary of State;

HIS MAJESTY THE KING OF THE BELGIANS:
Mr. Paul Hymans, Minister for Foreign Affairs, Minister of State;

THE PRESIDENT OF THE FRENCH REPUBLIC:
Mr. Aristide Briand, Minister for Foreign Affairs;

HIS MAJESTY THE KING OF GREAT BRITAIN, IRELAND, AND THE BRITISH DOMINIONS BEYOND THE SEAS, EMPEROR OF INDIA:

For GREAT BRITAIN and NORTHERN IRELAND and all parts of the British Empire which are not separate Members of the League of Nations:
The Right Honourable Lord Cushendun, Chancellor of the Duchy of Lancaster, Acting Secretary of State for Foreign Affairs;

For the DOMINION OF CANADA:
The Right Honourable William Lyon Mackenzie King, Prime Minister and Minister for External Affairs;

For the COMMONWEALTH OF AUSTRALIA:
The Honourable Alexander John McLachlan, Member of the Executive Federal Council;

For the DOMINION OF NEW ZEALAND:
The Honourable Sir Christopher James Parr, High Commissioner for New Zealand in Great Britain;

For the UNION OF SOUTH AFRICA:
The Honourable Jacobus Stephanus Smit, High Commissioner for the Union of South Africa in Great Britain;

For the IRISH FREE STATE:
Mr. William Thomas Cosgrave, President of the Executive Council;

For INDIA:
The Right Honourable Lord Cushendun, Chancellor of the Duchy of Lancaster, Acting Secretary of State for Foreign Affairs;

HIS MAJESTY THE KING OF ITALY:
Count Gaetano Manzoni, his Ambassador Extraordinary and Plenipotentiary at Paris.

HIS MAJESTY THE EMPEROR OF JAPAN:
Count Uchida, Privy Councillor;

THE PRESIDENT OF THE REPUBLIC OF POLAND:
Mr. A. Zaleski, Minister for Foreign Affairs;

THE PRESIDENT OF THE CZECHOSLOVAK REPUBLIC:
Dr. Eduard Benès, Minister for Foreign Affairs;

who, having communicated to one another their full powers found in good and due form have agreed upon the following articles:

ARTICLE I

The High Contracting Parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

ARTICLE II

The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

ARTICLE III

The present Treaty shall be ratified by the High Contracting Parties named in the Preamble in accordance with their respective constitutional requirements, and shall take effect as between them as soon as all their several instruments of ratification shall have been deposited at Washington.

This Treaty shall, when it has come into effect as prescribed in the preceding paragraph, remain open as long as may be necessary for adherence by all the other Powers of the world. Every instrument evidencing the adherence of a Power shall be deposited at Washington and the Treaty shall immediately upon such deposit become effective as between the Power thus adhering and the other Powers parties hereto.

It shall be the duty of the Government of the United States to furnish each Government named in the Preamble and every Government subsequently adhering to this Treaty with a certified copy of the Treaty and of every instrument of ratification or adherence. It shall also be the duty of the Government of the United States telegraphically to notify such Governments immediately upon the deposit with it of each instrument of ratification or adherence.

IN FAITH WHEREOF the respective Plenipotentiaries have signed this Treaty in the French and English languages both texts having equal force, and hereunto affix their seals.

DONE at Paris, the twenty-seventh day of August in the year one thousand nine hundred and twenty-eight.

[SEAL]	GUSTAV STRESEMANN
[SEAL]	FRANK B. KELLOGG
[SEAL]	PAUL HYMANS
[SEAL]	ARI BRIAND
[SEAL]	CUSHENDUN
[SEAL]	W. L. MACKENZIE KING
[SEAL]	A. J. McLACHLAN
[SEAL]	C. J. PARR
[SEAL]	J. S. SMIT
[SEAL]	LIAM T. MACCOSGAIR
[SEAL]	CUSHENDUN
[SEAL]	G. MANZONI
[SEAL]	UCHIDA
[SEAL]	AUGUST ZALESKI
[SEAL]	DR. EDUARD BENÈS

The VICE PRESIDENT. The treaty is before the Senate as in Committee of the Whole; and there being no committee amendments, article 1 is open to amendment. The Senator from Idaho is recognized.

Mr. REED of Pennsylvania. Mr. President, will the Senator from Idaho yield for a question?

Mr. BORAH. I yield to the Senator from Pennsylvania.

Mr. REED of Pennsylvania. It has been often stated that the effect of this treaty would be to preserve the status quo for the benefit of those nations which have satisfactory boundaries and protect them from any aggressive or warlike act which would rectify or change those boundaries. The question has been asked whether the treaty might in any way prevent attempts by pacific means to settle boundary disputes or to secure rectification of boundaries. I should like to ask the Senator's opinion whether the treaty has any such effect?

Mr. BORAH. Mr. President, my understanding is—and it is very clear to me—that the treaty would in no wise embarrass any nation in an effort to seek relief so far as boundaries are concerned or as to other settlements with which it might be dissatisfied, provided it should seek it through pacific means. The treaty would preclude the going to war upon the part of a nation signatory to the treaty to bring about a change of its boundaries or to bring about a change in a situation otherwise, but in no way would it affect the effort of a nation, dissatisfied with its boundaries or dissatisfied with its situation in any other respect, seeking to readjust conditions through pacific methods, through the organization of public opinion, the mobilization of moral feeling in regard to it or to an appeal to public opinion, or by any other method which would be regarded as pacific. All those things would be open under this treaty. Let me say in this connection that all the small nations of Europe have hastened to adhere to the treaty. I think it is their great hope.

Mr. REED of Pennsylvania. Mr. President, the Senator is aware, of course, that all over the world there are unsettled boundaries, there are controversies over boundaries, or there are nations which think that, for one reason or another, their boundaries should be changed. There are many cases where boundaries were established by treaties, and in many of the notes or agreements of acceptance of this treaty mention is made of one treaty or another which might have had to do with boundaries. I should like to ask the Senator, then, whether he thinks that by that process there has arisen any estoppel or implied agreement that any party to this treaty is not wholly free, by pacific means, to endeavor to change a

boundary or a treaty establishing a boundary? Of course, I recognize, as the Senator has just stated, that this treaty would prevent any warlike action to that end.

Mr. BORAH. In my opinion there is nothing in the treaty and nothing in the correspondence which would preclude a nation signatory to the treaty from pursuing any peaceful method to readjust its boundaries or to readjust its rights.

Mr. REED of Pennsylvania. I thank the Senator.

Mr. ROBINSON of Arkansas. Mr. President, I do not think that there has been any suggestion here or elsewhere that the contrary would be true. I have never heard that anybody has construed this treaty as preventing the readjustment of boundaries by mutual consent or through diplomatic negotiation or through any other peaceful means, such as arbitration.

Mr. REED of Pennsylvania. I have heard the suggestion made in Europe that some of the acquiescences to the treaty referred to former treaties establishing boundaries in such language as to imply that those were sacrosanct and could not be changed even by peaceful means. It seems to me to be an absurd suggestion, but, so as to remove all possible doubt, I wanted to have the question and answer in the RECORD.

Mr. ROBINSON of Arkansas. With the permission of the Senator having the floor, I think it may be said that, of course, all arrangements for peace, in a sense, tend to the preservation of the status quo, in that they contemplate the elimination or prevention of war to change existing conditions.

Mr. REED of Pennsylvania. Of course, we are all agreed as to that.

Mr. BORAH. Mr. President, some time before the debate closes, I may make some suggestion as to the benefit which I believe this treaty to be to small nations. I shall not do so now.

Mr. HEFLIN rose.

Mr. BORAH. Does the Senator from Alabama wish to occupy the floor?

Mr. HEFLIN. I wish to inquire, Mr. President, what is the order of business? Are reservations to be voted on first?

The VICE PRESIDENT. Section 1, article 1, of the treaty is open to amendment, the treaty now being before the Senate as in Committee of the Whole.

Mr. BORAH. I inquire of the Senator from Kentucky [Mr. BARKLEY] if he is ready to proceed?

Mr. BARKLEY. I was not quite ready, Mr. President; but if other Senators are not ready I suppose I can go on now as well as at any other time.

Mr. MOSES. Mr. President, the Senator in charge of the pending measure has spoken of his purpose to make some remarks before the close of the debate. May I ask him whether it is possible to come to any understanding as to when the vote will be had on the measure, and in what order we shall vote with reference to the reservations and resolutions which have been submitted?

Mr. BORAH. I should be very glad to have an understanding as to a time to vote. I had not taken up the matter of closing debate yet for the reason that I thought there were certain Senators who were not ready, on account of the fact that they had not spoken, to come to an agreement to vote; but I am quite ready to do so.

Mr. MOSES. I should like to enter upon negotiations with the Senator from Idaho to that end.

Mr. BORAH. Very well.

Mr. BARKLEY. Mr. President, I do not intrude myself upon the Senate at this time for the purpose or with the hope of influencing the vote of any Member of this body with reference to this treaty; but I do so in order that I may record, for my own benefit and for any other benefit that may accrue, some reactions which have occurred to me over the treaty and as a result of the discussion of it during the past few days.

There is a group of people in this country and in the world which looks upon this treaty as the ushering in of the millennium. There is another group which takes a wholly cynical view of it—that it is utterly worthless and ineffective, and that it is an evidence of weak-mindedness on the part of responsible statesmen in the world to entertain the hope that this treaty or any other treaty that may be entered into among the nations can abolish what history and politics must recognize as having been an instrument of national policy from the beginning of the world until this hour.

I do not belong to either of these groups. I hope that my attitude and my view of the treaty is not wholly visionary. I am quite certain it is not cynical.

I recognize that in any legal document, whether it is entered into between individuals or between nations, there will necessarily be controversy as to interpretations. If it were not for the controversies arising over the interpretation of legal documents and legal rights, the legal profession would have vanished from the earth long ago. But the fact that there are controversies, perfectly honest and perfectly logical, that arise over the interpretation of private agreements, is no reason why men should refuse to enter into those agreements, because, fortunately, there is in this country and in every other civilized nation a tribunal which can officially interpret the documents, and grant to the parties signatory thereto the rights to which they are entitled. Fortunately or unfortunately, there is now no world tribunal to which the United States is obligated, either by this treaty or any other treaty, to submit its controversies with other nations; and to that extent this treaty and our attitude toward any world organization now in existence offers an exception to the rule which may be applied to contracts entered into between private citizens of any nation.

In order to understand the background and the atmosphere which gave rise to this treaty it would be necessary to recount somewhat at length the long, distressful, and bloody history of mankind in its efforts to emphasize nationality, in its efforts to establish by might and by power the existence of a right which any individual nation has claimed or may claim under this or any other treaty.

I do not desire to go into any such review of the history of the world, because it would take too long, and it would serve no good purpose; but it is, I think, helpful to those who are constantly seeking some different method by which to settle the differences that arise between nations to reflect upon the fact that this treaty, that the treaty of Locarno, that the treaty of Versailles, with whatever of injustice it may contain, with whatever harsh terms there may have been inserted in it by the victorious powers, that the treaties of arbitration entered into during Mr. Bryan's incumbency as Secretary of State—that all these efforts on the part of all the nations or any group of nations to provide some method by which controversies may be settled amicably, grow out of the distressing and brutal conflicts of history, which have always brought suffering and misery to the great masses of the people, who in many cases had no voice in determining the policy which brought them into the catastrophe in which they were sufferers. I say it is extremely helpful to remember the fact that it is out of this history, out of this misery, of this bloodshed, of this humiliation, of this national and international bitterness and hatred, there have come these modern efforts to find some way by which the nations of the world may settle their controversies without resort to war. It has been very truthfully said that even the victor in any war is ultimately the loser, although it may have accomplished the purpose for which it went to war.

The treaty which we are considering at this time offers one of those plans, one of those hopes, one of those honest efforts, in my judgment, to find a peaceful way to settle the disputes that arise among nations; and the question which we are called on to determine for ourselves as we vote either for or against this treaty is whether it offers any hope of the peaceful solution of this age-old question that involves not only nations as nations, but involves millions and hundreds of millions, and even billions of men, women, and children throughout the nations of the earth.

I do not desire to enter into a discussion of the effect that this treaty may have upon the League of Nations or upon the World Court so far as our own country is concerned. We are not adherents to the treaty of Versailles, which created the League of Nations, although it may be said that that conception emanated very largely from the United States of America. We are not parties to the protocol which creates the World Court, either as an offshoot or an agency of the League of Nations. Therefore, so far as any binding effect that the existence of the League of Nations or the World Court may have upon us as a nation with relation to this particular treaty is concerned, it does not seem to me that we need give ourselves any great concern with reference to it.

There are some Members of this body and citizens of this Nation as citizens who hope that our ratification of this treaty and its existence among nearly all the nations of the earth may gradually lead us into the League of Nations and the World Court. There are other distinguished Members of this body and other citizens of the United States who are enthusiastically for this treaty in spite of their opposition to the League of Nations and in spite of their opposition to the World Court, and probably in the hope that the existence of this treaty and the obligations that may be assumed under it may in the long run prevent the entrance of the United States into the league or into the World Court.

I do not desire to enter into that controversy. Let any Senator or any citizen obtain whatever comfort or consolation he

may out of either of the horns of this dilemma. The question which confronts me, as I see my duty here, is: What effect will the ratification of this treaty have upon our country, upon the peace of the world, upon the realization of the highest ideals which in all generations have actuated peaceful men and women in drawing near to the goal which they all seek?

It may be unfortunate, and sometimes during this debate I have felt that it was unfortunate, in this era of "open covenants openly arrived at," and in view of the frank statements made by the nations which have signed this treaty preliminary to its signature, that in the very circumstances of the case it probably was impossible for our own Nation to be quite as frank with reference to one or two matters involved in this treaty as the other nations which felt it their duty to make some explanation or condition upon which they agreed to sign it.

I can realize that in any responsible position like that of Secretary of State or President of the United States in our own country, and in similar positions in other countries, where a treaty has been sponsored, where it has originated in some sense in a department of our Government or with the head of our Government, there is more or less embarrassment later if they are compelled to admit that they did not survey the whole situation originally; that they did not take into consideration all of the ramifications that might be affected by the promulgation of such a treaty. I can also understand some of the delicacy that must have surrounded our own State Department, after having sponsored and suggested and promoted this treaty, in having to take the position that it had to be explained by any formal communications or reservations. Yet I am compelled to pay tribute to the statesmen of other countries who, not only for themselves, not only in the interest of their own countries, but in the interest of a broader and more complete understanding in the years to come, when somebody must interpret this treaty, placed on record their understanding of its effect upon them, not only as to the assertion of their rights but as to the assertion of the rights of other nations that might be similarly situated, either at the time of the ratification or in the changes that may occur in the relations of nations hereafter in the world's history.

I am for the treaty, Mr. President. I wish that a little more had been said by our Secretary of State. I wish circumstances had justified him in going a little further in his correspondence and in his public addresses upon the subject with reference to those matters which other nations felt it incumbent upon them to point out.

I think if it had been possible or had been wise, under the circumstances, for our State Department to have elaborated more fully in its reply to the note of Sir Austen Chamberlain, and the notes of other nations, it might have saved a good deal of this debate and a good deal of the time of the Senate, and, at the same time, it might have reassured not only Members of this body, but it might have reassured the country more completely as to the exact status of our country in the assertion of the rights that may arise hereafter under this treaty or any other treaty.

I desire now to address myself very briefly to some of the objections which have been raised by the technical hair-splitters—and, of course, we are bound to have technicians in a great body like this, and it is well that we should go into minute detail in undertaking to understand the effects of a legal document like this.

It is my understanding, not only as to treaties but as to contracts, even so limited as between individuals, that in the interpretation of a contract, the correspondence and conversations leading up to the consummation of the agreement are competent evidence in determining what the contract means, if there should arise a controversy over its interpretation.

What does this treaty obligate the United States to do? No more than it obligates any other nation to do, because, as developed a few days ago in a colloquy between the distinguished Senator from Idaho [Mr. BORAH] and myself, this treaty can not mean one thing for one nation and another thing for another nation. If it is a multilateral treaty, that means, in my judgment, that it is alike to all nations, is the same to all of them. There is no nation that signs it or that adheres to it that can adhere to the benefits that accrue under the treaty, and, at the same time, deny or renounce whatever obligations may accrue under it. In interpreting this treaty in that light, even assuming that the interpretation of this treaty given by the distinguished Secretary of State for Foreign Affairs of Great Britain in the explanatory note which he saw fit to send to our country as the agent of Great Britain, as it reflects Great Britain's attitude, is the correct interpretation—and I think it is a correct interpretation—it can not mean that for Great Britain and something else for the United States, or France, or Italy, or any other country in the world.

If there are certain regions in the world that Great Britain now regards as of special interest to her, either as a matter of self-defense, or under any conception of moral obligation to less fortunate peoples throughout the world, then that same interpretation and that same obligation and that same right would exist with respect to any other nation which in the course of the years that lie out in the future might find itself similarly situated with Great Britain. In other words, if Great Britain can reserve the right, as she undertakes to do in this letter of Sir Austen Chamberlain, to construe this treaty as to her right of self-defense with respect to any part of the world where she has a special interest similar to that which now exists; and if, as is conceded here, the United States may do the same with reference to the Monroe doctrine, or any other regions of the world where our interests are comparable or similar, then it must logically follow that any other nation signatory to this treaty, although not now similarly situated either with Great Britain or with the United States, but which in the years to come might be similarly situated as a result of historic events which may occur in the future, would have the same right under this treaty to exercise the same right of self-defense wherever that right existed as a matter of necessity which either Great Britain or the United States now enjoys under the terms of this treaty on account of the situation in which they find themselves.

The question has been raised here as to the binding obligation of this treaty in the event no peaceful method of settlement can be arrived at between nations, because of the provision of the treaty that they obligate themselves to resort to no method of settlement except peaceful methods. I do not understand that provision of the treaty to mean that a nation must be compelled to sit supinely by and have its rights attacked or infringed upon by some other nation which may have an aggressive design against it, or some selfish purpose to accomplish by aggressive action toward our country or any other country. In other words, this obligation to resort to no other method except a peaceful method to settle a controversy presupposes that the peaceful methods have been or will be resorted to, or that these peaceful efforts have been made, prior to a conflict; but if any other nation, in the exercise of some unlawful or unholy design against our Nation or any other nation, makes an unfriendly gesture or takes an unfriendly, aggressive course, by any sort of force, the treaty does not obligate our Nation or any other nation to sit by peacefully and supinely and have its rights infringed upon without resorting to the same method of defense that has always been recognized as a part of national policy. It does not deny to any nation the right of self-defense.

While the language itself might imply it, I can not conceive of any nation, any administration, or any responsible statesman in any country committing his country to a proposition that would renounce war as an instrument of national policy and carry that renunciation to the extent of permitting an infringement of its rights, either at home or upon the high seas, or permitting an invasion of its territory, or an invasion of its institutions, or a combined effort on the part of other nations or of any single nation to undermine the foundations of its civilization or of its national existence. Therefore, in interpreting the meaning of the language "renunciation," we must interpret it in the light of experience and in the light of well-recognized national rights as well as human rights.

Every man and every woman who belongs to or joins civilized society has given up something that may be denominated a natural right—and by natural right we mean such right as men may enjoy in a state of nature; and in a state of nature the only right that is recognized is the right of force, the right of superior power, the right to accomplish some design of an individual without regard to any assumed natural or inherent rights of any other individual where force and power and might are the only law recognized.

Nobody would be willing to revert to a state of nature. Nobody would be willing to abandon all the bulwarks of civilization, all the structures of government, all the regulations which society has found it necessary to set up in order that civilization may be advanced, and return to a status where every man would be a law unto himself or where no right would be recognized except that of superior force.

Because I, as an individual, am a member of civilized society or am a citizen of the United States of America, or because I am a citizen of my own State under certain obligations that have been prescribed by our Constitution and by the laws of of our State, I do not thereby abandon my right to defend myself or my castle or my rights if they are invaded by any

man or any group of men who might undertake to deprive me of the rights which I enjoy as a member of civilized society.

By analogy I think we may place the same interpretation upon this treaty. Our ratification of the treaty does not take from us the right to exercise the first law of nature—the right of self-preservation.

Complaint has been made here that by the ratification of this treaty we obligate ourselves to stand by the status quo throughout the world, and yesterday the distinguished Senator from Wisconsin [Mr. BLAINE] took the position that by the ratification of this treaty we denied the right of every submerged race in the world to aspire to independence, that we hereby bind ourselves, while no other nation is bound, to recognize the claims of Great Britain as to her jurisdiction throughout the world, and that as to Egypt, India, Australia, or any other group or colony or section of the world over which Great Britain now exercises suzerainty or authority by entering into this treaty we close the door of hope to those submerged nations which may aspire to independence, and that if this treaty had been in effect in 1776 the thirteen original Colonies would not have had a right to revolt against the mother country and to establish their independence.

Mr. President, I am unable to read into this treaty or into any of the correspondence preliminary to it, or into any possible interpretation of the treaty, any obligation on the part of the United States or any other nation that is signatory to this treaty to interfere in the internal affairs of any other nation in the world. If all the colonies of Great Britain should on the day following the universal ratification of this treaty rise in revolt and seek to establish their own independence as independent nations of the world, there is not only nothing in this treaty which obligates the United States to interfere with those colonies or nations in their efforts, but, on the contrary, I think the plain implication of the treaty is that we would not have any right to interfere in any such conditions or circumstances.

If the treaty had existed in 1776 under the same terms and in the same language that it carries to-day there would have been nothing in it that would have obligated any other country to have interfered on behalf of the American Colonies or in antagonism to them. It is conceivable that if the treaty had existed in 1776 to 1783 France might not have had a right under the treaty to have interfered in our behalf, but at the same time she would have had no right to have undertaken to interfere on the side of Great Britain to prevent the accomplishment of our efforts to establish an independent nation.

Therefore I am not frightened away from this treaty by what I think is a fantastic interpretation, by what I think is an effort to read into it not only language but implications that are not justified either in the language or in the negotiations that led up to it. I do not think that by ratifying the treaty we are thereby obligating ourselves to close the door of hope to any submerged nation or race that may in the years to come aspire to national independence.

Let us see what it really was that Sir Austen Chamberlain said. That seems to be the "fly in the ointment" here. That seems to be the stumblingblock. Mr. Chamberlain had either the foresight or the frankness, or perhaps both, to call attention to certain circumstances which he regarded as essential to the defense and preservation of the British Empire. We are told that in doing this he was making a shrewd attempt to commit the United States to acquiescence in the existence or creation of a sort of British Monroe doctrine, while under the surface and under the cover and behind the scenes there was a tacit understanding between our State Department and the British State Department that no mention would be made of the Monroe doctrine.

Mr. REED of Missouri. Mr. President, did the Senator from Wisconsin say that?

Mr. BARKLEY. He did not say that actually occurred, but he drew that picture of what he thought probably occurred.

Mr. REED of Missouri. I did not so interpret it. However, I did not hear all he said.

Mr. BARKLEY. The Senator will find that reference in the speech of the Senator from Wisconsin as printed in the RECORD this morning. The writing of a letter on the part of Mr. Chamberlain did not create any new situation. It did not add anything to a condition which all of us recognize surrounds the British Empire and the British Government.

Mr. BLAINE. Mr. President——

The PRESIDING OFFICER (Mr. GEORGE in the chair). Does the Senator from Kentucky yield to the Senator from Wisconsin?

Mr. BARKLEY. I yield.

Mr. BLAINE. In connection with my comment on the failure of our Secretary of State to discuss the American Monroe doctrine, is it not a fact, as I stated, that in the British note containing paragraph 10, that paragraph 10 was numerically subsequent to paragraph 4 of the British note with reference to self-defense, and is it not a fact that our Secretary of State remained silent not only upon the question of the American Monroe doctrine but also remained silent with respect to his interpretation of paragraph 10 of the British note?

Mr. BARKLEY. Yes. I had already stated, in the absence of the Senator, that I regretted that the circumstances did not seem to impel the Secretary of State to give some recognition to that suggestion in the British note.

Mr. BLAINE. I not only regret it but I condemn it as a betrayal of his own country.

Mr. BARKLEY. I am not able to follow the Senator in that strong position on that subject. I think it is unfortunate that the Secretary of State did not go into a discussion of it and did not mention it. I so stated the other day in an interrogatory which I propounded to the Senator from Idaho [Mr. BORAH]. But at the same time, taking into consideration the Secretary's attitude upon the treaty and his explanation of its scope and meaning to the effect that it in no way rescinded or infringed upon or denied or in any way placed any condition upon the right of self-defense, and that he interpreted self-defense as exactly what the Senator has in mind, I can well understand why under the circumstances he did not deem it necessary to go into a detailed discussion of it or to recognize it specifically in his reply to the British note.

Mr. REED of Missouri. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Missouri?

Mr. BARKLEY. I yield.

Mr. REED of Missouri. I do not want to argue the question. I want to get the Senator's view, and that is all. I will speak in my own time. But does the Senator attach no significance to the fact that while Great Britain carefully reserved or set up for the first time specifically a British Monroe doctrine, our Secretary of State never once mentioned our Monroe doctrine? Does he not attach any significance to that?

Mr. BARKLEY. Yes; I attach some significance to it. I do not attach any significance to it, though, in so far as it affects our rights under this treaty or any other treaty, because the American Monroe doctrine is a doctrine that has been in existence for 105 years. It has been recognized by other nations of the world even in the formality of treaties. It was recognized in the treaty of Versailles. It has been recognized, I think, in one or two other treaties, possibly more than that. But it is a doctrine that is well established as a part of the fabric of international law. It is recognized by other nations as such. That can not quite be said of the so-called British Monroe doctrine. At least, I am not so sure that it can.

Mr. REED of Missouri. I will have to take exception to the statement of the Senator from Kentucky that our Monroe doctrine is recognized as a part of the fabric of international law. It has never been recognized as international law.

Mr. BARKLEY. Did not the treaty of Versailles make an exception? Of course, we are not a party to that treaty. But that treaty recognized the Monroe doctrine.

Mr. REED of Missouri. The treaty did not make an exception, and we did not become parties to that treaty.

Mr. BARKLEY. No; but it is binding upon all the nations that are parties to that treaty.

Mr. REED of Missouri. No; not at all. It was made for our benefit, with the expectation that we would sign, and when we do not sign a treaty we can not claim its benefits. However, let me ask the Senator whether it would make any difference in his construction if he knew that the Secretary of State had purposely avoided any reference to the Monroe doctrine because he feared that the South American countries would then refuse to sign?

Mr. BARKLEY. No; it would have no effect upon my interpretation of the treaty itself because the Monroe doctrine was made in its original form as a doctrine to apply as between the United States and European nations in dealing with South America. It was not a doctrine entered into between the United States and any South American country, and has never been so regarded, although I agree with the Senator from Idaho and other Senators that we have wandered far from the original conception of the Monroe doctrine. I doubt very seriously whether President Monroe ever had it in his mind when he announced that doctrine that it could be made to apply to a friendly settlement of legitimate disputes that might arise between some country in Europe and some country in South America, such a controversy as might arise between any nations anywhere in the world and not peculiar to South America. We have developed and interpreted the doctrine until it is now generally understood that our Government applies it to the

settlement of disputes between European nations and South American nations, even in a friendly way, that by some conception might infringe upon the future right or power of defense or safety of the United States.

Mr. REED of Missouri. The Senator recognizes the fact that at least a number of South American countries have been constantly protesting against the continued application of the Monroe doctrine?

Mr. BARKLEY. Yes; I am aware of that, but of course that protest has arisen largely out of our attitude toward the South American countries in matters involving our country, wholly independent from any European nation.

Mr. REED of Missouri. That may be. However, that is aside from what I am trying to develop. The Senator concedes that South American countries, or some of them at least, regard the Monroe doctrine as an infringement upon their rights. He now asks those countries to sign a general pact of peace. We know that their feeling is such touching the Monroe doctrine that they would not sign the treaty if we mentioned the Monroe doctrine, and with that knowledge we do not mention it, and we thereby secure their signatures. Does not the Senator think that in morals, if not in law, we have waived the Monroe doctrine, or does he think that we have the right to perpetrate that sort of—I do not like to say "fraud" but it is the only name I know that fits the case—upon the South American countries?

Mr. McLEAN. A secret reservation.

Mr. REED of Missouri. Yes; a secret reservation.

Mr. BARKLEY. As I said earlier in my remarks, I regard it as unfortunate in this day of complete publicity with reference to international relations existing between different countries, that some mention was not made of that interpretation of the treaty; but at the same time I doubt whether the Senator or any Senator can say that if Secretary Kellogg had gone into a detailed discussion of the Monroe doctrine in his correspondence with the British Secretary of State, South American nations would not have signed the treaty. I can make no such assumption. There is no way by which we can judge what would have happened if something else had happened that did not happen.

Mr. REED of Missouri. The Senator then thinks it would not be obnoxious to South American countries at all if we did now mention the Monroe doctrine, and if that is the case why do we not now mention it in some form or other here in the Senate so that the world may know that America still stands upon her doctrine?

Mr. BARKLEY. I think it would be well for some mention to be made of it. It has been discussed here in the Senate by different Senators. I think the committee in its report upon the treaty might well have made perfectly plain the interpretation that we place upon the treaty and our entrance into it. If controversies should ever arise hereafter as to what we mean, we ought, as a matter of evidence, to make perfectly clear that by ratifying this treaty and by undertaking to carry out its obligations, we do not surrender this time-honored doctrine which has been purely American in the assertion of our rights on the Western Hemisphere.

Mr. REED of Missouri. I expected just that sort of frank and fair answer from the Senator. The Senator, of course, is familiar with the rule that what may be said by individual members of a legislative body in discussing a proposed law or treaty is not accorded much, if any, weight by any court or tribunal called upon to construe the instrument; but that a report of a committee is taken as carrying with it considerable authoritative construction. Of course, if the committee has failed, or should fail to report, the same thing may be accomplished even more positively by a simple resolution of the Senate stating that in ratifying this document we do not waive in any way our Monroe doctrine. In view of that, I ask the Senator why he can not concur with some of us who insist that that sort of precautionary measure should be adopted?

Mr. BARKLEY. Mr. President, there is a difference between having in the record something that is capable of being used as an interpretation of our conception of the obligation of the treaty on the one side and a formal resolution that might be in the nature of a reservation or a condition or an exception of some kind attached to the treaty itself.

Mr. REED of Missouri. I am not speaking of a reservation, because it has been said that if there were a reservation attached the treaty would have to go back to all other nations for future consideration. To my mind, that is exactly what we ought to do as a matter of fair and square dealing; but, in view of that objection, many of us have said that a simple resolution of the Senate, showing that we maintain our Monroe doctrine unimpaired, would be acceptable. I think, in view of the Senator's argument, he ought to be in a frame of mind to acquiesce in it. None of us want to destroy this treaty since it has reached its present stage, I take it, but we do want it to be clear that we are not waiving any rights. I myself would never have offered this treaty; I go so far as to say that it is a foolish thing, in my judgment; other people have a different view of it, and they have the right to their different view; but if we ratify the treaty, if there ought to be some expression by a committee, and if the committee does not express itself, why should not the Senate say authoritatively, while we have ratified this treaty as it stands, in doing so we have not waived the Monroe doctrine; we have not by implication agreed ever to make war upon any nation in an effort to enforce this treaty, and we have not by accepting the treaty accepted any particular constructions that anybody has put upon it?

Since the Senator's patience with me does not seem to be exhausted, I will say this further: When sensible men who are not trying to destroy the treaty entertain fears that certain constructions may be placed upon the treaty, is it not fair to assume that antagonistic European interests, finding it to their particular interest to give those constructions, are very likely to insist upon them, and that, as a matter of prudence, we should in advance clarify the entire situation so that in the future no honest nation can honestly give the constructions which we fear the treaty will bear?

Mr. BARKLEY. I should hesitate to take here any action that would place an embarrassment around the United States in the future application of this treaty that would not be placed around the other nations that are signatory to it. Of course, in a treaty or in any sort of legal document that is drawn up in as general terms as is this treaty, in the very nature of things, it is capable of all sorts of constructions. Efforts will no doubt in the future be made to place constructions upon the treaty that will be in the interest of different nations that may have something in mind in the application of the treaty or in undertaking to shun some obligation that may be assumed under it. Taking human nature as it is and not as we would like to have it, we are bound to anticipate, just as individuals now and then seek to relieve themselves from the solemn obligation of a contract entered into between them and others, that groups of individuals which we call nations may assume, now and then, to try the same thing. So I would hesitate, by our action here, to do anything that might embarrass our country to a greater extent than any other country would be embarrassed in the future in the interpretation and application of the treaty; but I would not be willing to go to the extent of hazarding the accomplishment of this treaty. Taking our chances upon the interpretation already placed upon it by the Secretary of State and by almost every Senator here, I say I would not go so far as to hazard the accomplishment of this treaty, in order to surround it by technical explanations so that no controversy might ever arise in the future as to its interpretation; and I do not believe that that is what the Senator has in mind.

Mr. REED of Missouri. Of course, when the Senator says that we have a treaty here that is so loosely drawn that almost any construction may be placed upon it——

Mr. BARKLEY. I did not use the words "loosely drawn." I said the treaty was general in its terms.

Mr. REED of Missouri. Very well, then—"general in its terms."

Mr. BARKLEY. The expression "loosely drawn" carries a sort of stigma; and I do not care to use it.

Mr. REED of Missouri. I do not want to stigmatize anything; but, taking the Senator's language, the treaty is "generally drawn." Of course, that is a sufficient reason why we ought never to sign it. The Senator from Kentucky would not permit a client of his, nor would I permit a client of mine, to sign a contract so general in its terms that anybody could place upon it any kind of a construction that he wanted to place.

Mr. BARKLEY. If in the days of dueling a contract had been entered into between two men that in the settlement of their disputes thereafter they renounced dueling as an instrument of their private policy and agreed not to attempt to settle their disputes except by some pacific means, would the Senator have undertaken in that sort of a contract to have gone into all the possible interpretations and applications of such an understanding between the two men in order that in the future no misunderstanding might arise?

Mr. REED of Missouri. Oh, no; I would have just prohibited dueling and meant it. I would not have prohibited dueling except when somebody wanted to construe the prohibition to mean that what he was doing was in self-defense, that he was defending himself, and was defending his honor, and therefore he had the right to draw his sword when anybody infringed his honor. That is the condition in which we find ourselves in connection with this treaty.

Mr. BARKLEY. The analogy is a little different, because the state in that case had the power to prevent dueling, and did so, and had the power to punish those who participated in dueling. The difference is that there is no tribunal in the world that has the power now to prevent war, enforce its prevention, and to punish the nation that violates the prohibition against war. Our Nation has been unwilling to enter into any such understanding.

Mr. REED of Missouri. Therefore, in drawing any contract, there being no court to construe it, we ought to make the contract all the plainer. However, we are going a little aside from the thought that I had in mind. The Senator says that the treaty is so generally drawn and that many constructions can be placed upon it. It would seem, therefore, that the argument in favor of removing a difficulty of construction that we can remove ought to be adopted before any controversy arises, because it is a poor time to construe an instrument after a controversy has arisen.

The Senator from Kentucky has said he does not want to impair the chance of the acceptance of the treaty. If Great Britain can attach important conditions of construction, if France can attach important conditions, if Germany can attach important conditions, if Yugoslavia and Czechoslovakia can attach important conditions, if Russia and Persia and Egypt can attach important conditions which they deem necessary to do in order that there shall be no mistake as to the conditions upon which they sign the treaty, why can not the United States attach the very conditions that every advocate of this treaty has insisted are our rights and have gone to the extent of insisting that we do not even need to state them; that they are in the treaty?

Why should any nation refuse to accept this treaty because we insist upon stating in plain words that which so many Senators say is embraced in the treaty anyway?

Mr. BARKLEY. My answer to that would be, of course, that I do not think any nation ought to refuse to adhere to it on that ground. Whether there is such a nation, of course, I am not in a position to say.

Mr. REED of Missouri. If the Senator will pardon me further, if there is a nation that will not sign this treaty, if we state plainly what it means, then is it not perfectly certain that that nation does not intend to keep the treaty with the construction which we put upon it? If that is the case, ought we not to know it now before we touch pen to paper and bind ourselves?

The Senator would say that to any client; I know he would, for he is a splendid lawyer. No one could get him to say to a client, "You believe this contract means a certain thing, but if you write it into the contract the other man will not sign it; therefore do not write it in the contract; let us hope," to use the slang phrase, "to put it over on the other fellow and get his signature." The Senator would not do that; an honest lawyer would not do that; an honest client would not do that; and an honest man would repudiate it.

Mr. BARKLEY. Of course, the Senator will recognize the fact that the conditions carried in the correspondence with Germany and France largely deal with the obligations under the League of Nations and the Locarno treaty; and in the very nature of things probably it was proper to make it clear, although I do not know that it was necessary, because this treaty does not undertake to abrogate any obligation that is carried under the League of Nations or the treaty of Locarno.

Mr. REED of Missouri. If it was necessary to mention the Locarno pact—which is a pact for mutual defense and offense—if it was necessary for Great Britain to mention and set up really for the first time officially her Monroe doctrine, why is it not equally necessary for us to set up our rights? Why should we alone, of all the nations in the world, stand silent and reserve nothing, except that the desire to have this treaty ratified is so great that the rights of the United States are to be jeopardized?

Mr. BARKLEY. Of course, the explanations on the part of Germany and France and Great Britain and all the nations that made any reference whatever to the League of Nations and its obligations, and the treaty of Locarno and the neutrality treaties, in my judgment, are not matters about which we, as a Government, may concern ourselves. We are under no obligations under the League of Nations, and whatever reservations were made by any European nations as to obligations under the League of Nations were reservations among themselves, not applicable to the United States; and the same is true of the treaty of Locarno. We are under no obligations under those treaties. We are not a party to either of them. So that it gets down, after all, to the interpretation of the treaty as it applies to the Monroe doctrine and the so-called British Monroe doctrine.

Mr. REED of Missouri. Then the same argument that the Senator has made would be true as to our Monroe doctrine. We would say it is none of their business; but I do not take that view.

Mr. BARKLEY. We might as well attach a reservation or condition that the ratification of this treaty in no way abrogates or affects the so-called Bryan treaties, entered into 15 years ago, or any other treaty between the United States and any South American nations which have recently been entered into for arbitration and friendly settlement of disputes that arise between the South and Central American nations and our Nation.

Mr. REED of Missouri. Exactly.

Mr. BARKLEY. This treaty does not abrogate those treaties. It does not affect them, except possibly to strengthen them. It might be just as logical, however, to say that in order that that may be made clear we shall have a reservation or an attachment to this treaty saying that it does not affect our obligations under these arbitration treaties heretofore entered into by the United States.

Mr. REED of Missouri. Now, let us see how far that answer goes. It would be perfectly proper for us to say it, and if we were as wise as foreign diplomats we would do exactly what they did do; we would say it. But, waiving that for the moment, I say that when we enter upon this treaty we are concerned with the obligations of other nations if those obligations are to continue.

Let us see if that is not true.

We make a treaty saying that no nation will go to war under any circumstances. Then, if there were treaties for war, we certainly would be concerned in that question, and we would want to know whether they were going to stand on their old treaties or obey this one. There were such treaties. Upon the face of the papers they were wiped out. Then came the European nations and said, several of them, "We want it understood that these obligations to make war under certain conditions are not wiped out, and you must consent to that or we will not sign." Are we concerned in it?

What are we making this treaty for? We are making it to preserve the peace of the world—not our peace alone, but the peace of the world—and if there be treaties and obligations which are excepted from this treaty, they thereby minimize the effect and scope of the treaty, and we are interested because it then becomes not a general treaty of peace but a treaty of peace with qualifications for war.

How can it be denied that that is true?

Mr. BARKLEY. We are, of course, interested as a nation in the peace of the world. We are not interested, as a party to the contract referred to by the Senator, in the treaties existing among the nations of Europe. The covenant of the League of Nations in article 10 stipulates that all the signatories to that treaty obligate themselves to respect and preserve the territorial and national integrity of the other nations that are signatory to it.

According to my interpretation, even if we were a member of the league and had ratified that treaty, that does not obligate us to go to war to preserve the territorial integrity of one nation if it should be attacked by another; but it specifically provides that the council of the league shall thereafter consider what means shall be adopted to carry out that treaty.

Mr. REED of Missouri. And, having considered, what next?

Mr. BARKLEY. So that I do not regard that treaty as a treaty which compels entrance into war; neither do I regard the Locarno treaty as a treaty that provides for war. All of them are looking—it may be unwisely, in the estimation of the Senator—but all of them are looking toward the accomplishment of peace.

Mr. REED of Missouri. No; all of them are treaties by which certain nations agree that in the event another nation does a certain thing they will apply to that nation what they call "sanctions," which means warlike measures, and may mean war. If such treaties exist, and if we recognize them, we thereby limit and qualify this treaty that we are entering into; and to that extent we are clearly interested—that is the point I am making—just as they would be interested, and no more than they would be interested if we were specifically to reserve the Monroe doctrine.

Now, let me illustrate that.

Mr. BARKLEY. Not quite so, because to reserve the Monroe doctrine is a reservation, according to my interpretation of the original Monroe doctrine, against any action on the part of Europe.

Mr. REED of Missouri. Surely.

Mr. BARKLEY. But the reservations and obligations carried in the treaty of Locarno and the treaty of Versailles, to which we are not parties, can not be interpreted as reserva-

tions or conditions applied against the United States, because we are not parties to those treaties.

Mr. REED of Missouri. No; they are not applied against the United States; but let us see if they do not apply here.

It is true, now, that they do not make us agree in the treaty of Locarno that we will go over there and do anything. They do agree that they are going to do a great deal.

Mr. BORAH. Mr. President——

Mr. REED of Missouri. Just a second. There can be no war in Europe without its affecting—and that is the great argument for this treaty—the welfare, the economic conditions of this country and of every other country. Therefore if they get up a war in Europe, no matter who starts it, it has some effect upon us, and thus we are interested.

It may mean an embargo upon our commerce. It may mean seizure of our vessels on the high seas, as England seized them in the last war long before Germany began to do it. It may mean drawing us into another struggle, as we were drawn into this through interference with our trade and commerce and shipping. So we are interested; and it is idle, it seems to me—and I say it with all respect—to claim that here is a treaty that we ought to enter upon for the purpose of preserving the peace of the world and stopping all wars, and then to say that we are not to consider the question of whether there are certain obligations and treaties which are really treaties that draw nations into a conflict which is not, as to them, a conflict of self-defense.

Let me illustrate what I mean: Here are four of us. We have been enemies. We agree now that for the common benefit of all we will keep the peace; that we will not fight except in strict self-defense. Then it transpires that I and my friend here from Louisiana [Mr. BROUSSARD] have a side agreement that if either one of us is attacked, or either one of us has a controversy, we will join to put down one of the other men. Now, certainly when we all sign this pact that side agreement has its effect upon that pact of peace; and certainly it is not the same thing, when we accept this side agreement and except it from the terms of the agreement, as the agreement would have been if the side agreement had not been made. There can not be any question about that.

Mr. BARKLEY. The side agreement, while it may disturb the peaceful atmosphere of the community of interest among the four of you, can have no binding effect upon the other two who have not been a party to it, even though it might draw in a fifth who was not a party to either of those agreements.

Mr. REED of Missouri. But it has the effect, the Senator must admit, of excepting from the terms of this agreement all of the conditions of the other agreement.

Mr. BARKLEY. It might affect the terms of the agreement as between those nations or those parties affected, but it could not affect the terms of the agreement between us and those nations; that is my contention.

Mr. BORAH. Mr. President——

Mr. BARKLEY. I yield to the Senator from Idaho.

Mr. BORAH. In view of the fact that the Senators are discussing the Locarno pact, I want to put into the RECORD article 2 of the Locarno pact:

> Germany and Belgium, and also Germany and France, mutually undertake that they will in no case attack or invade each other, or resort to war against each other.

The principle is identical with the principle here, limited only in territory. All the members of the Locarno pact are members or will be members or signers of this treaty. Therefore if they violate the Locarno pact they have violated this agreement, and we are released from it.

Mr. REED of Missouri. That is true; when any nation goes to fighting we are released under this agreement so far as that nation is concerned. The Locarno pact provides, however, that in the event certain things are done, certain other nations will go to war, not when they are attacked but when a treaty is violated.

Mr. BORAH. For instance, let us say that Germany, simply as an illustration, violates the Locarno pact. The minute she does so we in this country are released from obligations to Germany by reason of this agreement, and every other signer of this agreement is released as to Germany, and they deal with Germany with the same freedom as if the treaty never had been signed. The violation of the Locarno pact at the same time and through the same act annuls this treaty as to that nation.

Mr. REED of Missouri. We are not released as to those that do not break the pact; and those others who do not break the pact are engaging in a war to put down a particular nation, not because they have been attacked but because one of them has been attacked or because the terms of a treaty have been violated.

Mr. BORAH. No; but suppose Germany violates the Locarno pact. Great Britain is released from this treaty as to Germany. The United States is released as to Germany.

Mr. REED of Missouri. Yes; but that is not all. Great Britain is not only released as to Germany from her obligation to keep the peace but she has made a positive obligation to make war.

Mr. BORAH. She has a perfect right to do so, so far as this treaty is involved, because it has been broken, and Great Britain is free.

Mr. REED of Missouri. Yes.

Mr. BORAH. The minute the Locarno pact is broken Great Britain is free to proceed against Germany.

Mr. REED of Missouri. Surely.

Mr. BORAH. The minute the Locarno pact is broken this country or Great Britain would be free to proceed against Germany.

Mr. REED of Missouri. But is there no difference in the distinguished Senator's mind between being free to take an action or not to take it, and having assumed a positive obligation to take an action, that action to be an action of war?

Mr. BARKLEY. In other words, any nation which is a party to both the treaty of Locarno and this treaty may violate both treaties in the same act.

Mr. BORAH. That is correct.

Mr. REED of Missouri. That is true.

Mr. BARKLEY. And the violation of either one of them or both in the same act releases the other nation from the obligation that it may be under to grant to that offending nation the benefits of this treaty.

Mr. REED of Missouri. Yes.

Mr. BARKLEY. But it does not obligate the United States to do anything else; to go to war or to take any action against the offending nation.

Mr. REED of Missouri. But it does obligate these other nations to make war.

Mr. BARKLEY. Not against us.

Mr. REED of Missouri. No; but against another nation and thus spread the war. Any man who says that that does not make any difference reasons in a way that I can not understand.

Mr. BARKLEY. Under the Locarno treaty, as I understand it, any nation which may be described as an offending nation is a nation that has taken some aggressive action without justification against some other signatory to the treaty. The same conception is carried in this treaty. Of course, if some nation a party to the Locarno treaty takes an aggressive action against some other nation a party to that treaty, then the obligations, whatever they are, under the Locarno treaty, attach to all the nations that have signed it. Of course, they do not attach to us. But if, in the violation of the Locarno treaty by an aggressive act on the part of a nation party to it, this treaty is at the same time violated, then it automatically relieves our nation of any obligation to accord to the offending nation any benefit under this treaty. That does not obligate us to go to war or take sides in the controversy that is involved in the violation of the Locarno treaty.

Mr. REED of Missouri. Mr. President, let us stick to the question we are discussing. Everybody admits that we are not obligated to go to war unless there is an implied obligation on our part to sustain the treaty, and I am afraid there is; but I am not arguing that now. Let us take the other view. Here are certain nations of Europe. They have agreed to certain things upon the happening of which they will resort to war-like measures. We make a treaty with all of them to keep the peace. One of them breaks the peace. That breaks the treaty as to us and it breaks the treaty as to all the other nations. If that were all, we would all be on a parity; but we acknowledge the validity of a treaty that binds these other nations, then, to resort to certain measures, and those measures mean the spreading of the war, or may mean the spreading of the war, to a large number of countries.

Let us see what the Locarno pact says. It is not so simple as would appear:

> The high contracting parties collectively and severally guarantee, in the manner provided in the following articles, the maintenance of the territorial status quo resulting from the frontiers between Germany and Belgium and between Germany and France and the inviolability of the said frontiers as fixed by or in pursuance of the treaty of peace signed at Versailles on the 28th of June, 1919, and also the observance of the stipulations of articles 42 and 43 of the said treaty concerning the demilitarized zone.

The first thing there is a guaranty of a status quo. It is never to be changed.

I am not speaking for Germany, but I am speaking of the principle. No matter how onerous these conditions may become, no matter, though Germany might deem it a matter of life and death, not only of self-defense or defense of her interests but of her very life, to undertake to change them, these nations with which we are now signing have solemnly agreed to put her down. I continue the reading:

Germany and Belgium, and also Germany and France, mutually undertake that they will in no case attack or invade each other or resort to war against each other.

This stipulation shall not, however, apply in the case of—

1. The exercise of the right of legitimate defense; that is to say, resistance to a violation of the undertaking contained in the previous paragraph or to a flagrant breach of articles 42 or 43 of the said treaty of Versailles.

There is an agreement to go to war when nobody is defending, when nobody is attacked. They are to go to war for other conditions.

If such breach constitutes an unprovoked act of aggression and by reason of the assembly of armed forces in the demilitarized zone immediate action is necessary.

2. Action in pursuance of article 16 of the covenant of the League of Nations.

3. Action as the result of a decision taken by the assembly, or by the council of the League of Nations or in pursuance of article 15, paragraph 7, of the covenant of the League of Nations, provided that in this last event the action is directed against a State which was the first to attack.

Then we go on:

ART. 3. In view of the undertakings entered into in article 2 of the present treaty, Germany and Belgium and Germany and France undertake to settle by peaceful means and in the manner laid down herein all questions of every kind which may arise between them and which it may not be possible to settle by the normal methods of diplomacy:

Any question with regard to which the parties are in conflict as to their respective rights shall be submitted to judicial decision, and the parties undertake to comply with such decision.

All other questions shall be submitted to a conciliation commission. If the proposals of this commission are not accepted by the two parties, the question shall be brought before the Council of the League of Nations, which will deal with it in accordance with article 15 of the covenant of the league.

The detailed arrangements for effecting such peaceful settlement are the subject of special agreements signed this day.

Now, listen to this:

ART. 4. 1. If one of the high contracting parties alleges that a violation of article 2 of the present treaty or a breach of articles 42 or 43 of the treaty of Versailles has been or is being committed, it shall bring the question at once before the Council of the League of Nations.

2. As soon as the Council of the League of Nations is satisfied that such violation or breach has been committed, it will notify its finding without delay to the powers signatory of the present treaty, who severally agree that in such case they will each of them come immediately to the assistance of the power against whom the act complained of is directed.

In plain, simple language that means that the obligations imposed upon Germany at the end of the war are to stand, that German territory is to stand as it did stand, that no matter how much Germany may claim she is defending herself, no matter how vital is her action to her interests, the Council of the League of Nations decides that question; and if the Council of the League of Nations decides that question against Germany, every one of these nations has agreed to go to war. You say that does not qualify a general proposition that we will never go to war? Or that proposition is not qualified by the definition of self-defense, that we will never go to war except in self-defense? This is not a matter of self-defense at all; it is a matter of imposing conditions upon a nation.

I do not see how Senators can argue that the exception of these articles of the Locarno treaty from this pact makes no difference. If it makes no difference, then everything is excepted from it and there is no pact, and all we are doing is throwing a kiss to Europe and they are sending it back; and I hope that there will not be any germs connected with it.

Mr. BARKLEY. It may be more effective and more valuable now and then to throw a kiss than to throw a bomb.

Mr. REED of Missouri. That is true, and if we are going to throw a kiss, let us understand that it does not carry with it any obligation of matrimony.

Mr. BARKLEY. I suppose there is no possibility of misconception as to the Senator's attitude on the question of matrimony between nations. My understanding of the provisions of this Locarno treaty, in a nutshell, is this: That the nations obligate themselves, in that section where they guarantee to respect the territorial limitations of each country, not to undertake to acquire a part of the territory of any other nation a party to that treaty by force.

Germany has signed that treaty. It does not lie in our mouths in the United States to complain that Germany, by reason of the Locarno treaty, may be forced to accept permanently the boundary lines fixed in the treaty of Versailles. If Germany has with her eyes open signed that treaty, has been willing to obligate herself not to undertake to recover any of the property taken from her by the Versailles treaty by force, it does not lie in our mouths to complain of an action that Germany has freely and voluntarily entered into.

Mr. REED of Missouri. That is not the question.

Mr. BLAINE. Mr. President——

The PRESIDING OFFICER (Mr. KING in the chair). Does the Senator from Kentucky yield to the Senator from Wisconsin?

Mr. BARKLEY. I will yield, but I desire to conclude my remarks as soon as possible.

Mr. BLAINE. Can it be assumed that Germany voluntarily joined in the treaty of Versailles? Is it not a fact that Germany was the defeated nation, and that word was given to Germany that she should place her signature on that treaty or that the armed forces would be moved and occupy her territory?

Mr. BARKLEY. That may have been suggested in the preliminary negotiations about the armistice, but it brings us back to the old question of taking a horse to water and not being able to make him drink. It may be that Germany was not only taken to the creek but was forced to drink. But that would not be true as to the Locarno treaty. There was no big club held over Germany to compel her to sign the treaty of Locarno. That was a treaty signed by the belligerent nations of Europe that had been primarily involved in the World War, to try to make it impossible for any other situation ever to arise among them that would bring on another world conflict like that which was precipitated by the entrance of Germany, Russia, France, and England into that great war. It is to the credit of Germany and the other nations that they were willing to enter into an obligation that would prevent the creation or existence of such conditions as those which produced the World War.

I can not place any interpretation on the Locarno treaty that puts upon the United States either any legal or moral obligation to interfere in the application or in the enforcement of the Locarno treaty, even though we become a member of the family of nations that sign the treaty now under consideration. The signatories promise, of course, that they will not invade one another for aggressive purposes or interfere with the boundaries between the nations; but in the very nature of things they could not agree that if one nation violates the treaty and invades another nation to get some of its territory, that nation will be compelled to sit supinely by and permit itself to be ravished without retort or without defense.

Mr. REED of Missouri. Will not the Senator let me bring him back to the question?

Mr. BARKLEY. Even if the treaty of Locarno obligates the other nations that are signatory to it to go to the defense of the invaded nation, even to the extent of war, that does not obligate the United States under this treaty to follow in the wake of that war, unless as a consequence of it, of course, the question of our own self-defense should arise, as it did in the war between Germany and the other nations of Europe.

Mr. REED of Missouri. It is true that is not a treaty alone to prevent Germany from invading some other country, as the Senator put in his statement. Here are the mentioned articles 42 and 43:

ARTICLE 42

Germany is forbidden to maintain or construct any fortifications either on the left bank of the Rhine or on the right bank to the west of a line drawn 50 kilometers to the east of the Rhine.

ARTICLE 43

In the area defined above, the maintenance and the assembly of armed forces, either permanently or temporarily, and military maneuvers of any kind, as well as the upkeep of all permanent works for mobilization, are in the same way forbidden.

ARTICLE 44

In case Germany violates in any manner whatever the provisions of articles 42 and 43, she shall be regarded as committing a hostile act against the powers signatory of the present treaty and as calculated to disturb the peace of the world.

So, coming back to our original point of discussion, which was whether accepting and acknowledging these exceptions of the Locarno treaty and of the treaty of Versailles, in connection with this treaty, changed the treaty, it must be perfectly

manifest now that they do change this treaty. They take out of it all of these other obligations. They place the other nations under an obligation to act and to make war, not in defense but in order to impose the conditions of certain treaties upon Germany. Therefore it must constitute a very important qualification to this treaty.

That being true, and the European nations having done all that to safeguard every treaty, and every agreement, and every pact that they have, why should not the United States, as a matter of common prudence, stipulate that we are not waiving the most important doctrine our country has ever maintained? Why should they object and how can they object if the Senate says we have not waived or impaired the doctrine announced by James Monroe?

Mr. BARKLEY. I agree with the Senator very largely in his last suggestion. I do not agree with him in his interpretation of the obligations that may remotely be placed upon us by reason of those two treaties in Europe to which we are not parties.

Mr. REED of Missouri. I do not want to be misunderstood. The Senator has been very patient. I have not said they impose obligations upon us.

Mr. BARKLEY. But the Senator said it changed the treaty.

Mr. REED of Missouri. It changes the treaty because they are taken out of the treaty, but it does not impose an obligation upon us to fight. It places us in the position of recognizing their rights to make these wars without in any way consulting us, and they can not make that sort of war without it affect our interests. That is all I said.

Mr. BARKLEY. It is only putting upon the notes, in which reference is made to the Locarno treaty and the Versailles treaty, the extreme interpretation which the Senator from Missouri might be capable of placing upon them. In my judgment it only means that we recognize that there are such treaties that exist in the European nations, but by simply recognizing that they have entered into those obligations in no way affects our moral or legal obligation under this treaty or under those treaties. It might be just as logical to say that we ought to put in here some definition that would make it perfectly plain that while recognizing the Locarno treaty and the Versailles treaty to some extent, we make no exception of the reservations on the part of the nations that are parties to those treaties, but we want it understood that it in no way affects us or our rights.

Mr. REED of Missouri. Why not also say, "Since you gentlemen have reserved all of your treaties and your obligations, we likewise reserve ours and want you to understand that we regard it as a matter of vital interest to us"?

Mr. BARKLEY. I do not think that will be necessary. I think if all the nations parties to those treaties should undertake to set out all the obligations that they are under to somebody else that may be remotely affected by this treaty, they would comprise a large volume and the world would lose sight of the treaty itself.

Mr. REED of Missouri. We would only be doing what Great Britain has done. We would simply be saying, and I am using common ordinary language to express it, "Understand, gentlemen, when we are signing this treaty we are not waiving our Monroe doctrine." Now, I come back to my question again, and then I am not going to interrupt the Senator further. If the Senator knew that the Monroe doctrine, or any mention of it, had been left out of the treaty lest it might arouse the antagonism of South American countries to the treaty, would not he think that as a matter of good faith the South American countries ought to be frankly told that we do intend to except the Monroe doctrine?

Mr. BARKLEY. If there were any necessity for serving notice upon the South American countries that that was our intention, the Senator's position might be well taken, but I think in view of the history of the Monroe doctrine, in view not only of the fact that we have never yielded or departed from it, but have enlarged it, it seems to me to serve notice upon not only South America but the entire world that the United States has no intention of waiving its rights under the Monroe doctrine.

Mr. REED of Missouri. But is afraid to mention it.

Mr. BARKLEY. No; we are not afraid to mention it. We are doing it every day. To sum up my attitude toward the various propositions that might be included in reservations or exceptions, I wish to say that so far as treaties that bind the various European nations among themselves to do or not to do a particular thing in a certain contingency, I may be entirely wrong about it; I may be too generous in my conception of their attitude toward one another, but I am not alarmed for the welfare of the United States as a party to this agreement by reason of the treaties that bind the various nations of Europe. If they violate the treaty of Locarno or the treaty of Versailles, they automatically violate the treaty we are now considering, and that violation automatically releases us from any further obligation to the offending nation.

There is a provision in this treaty or in the correspondence which says that if one nation violates the treaty it is to be denied the benefits of the treaty. I am not quite clear as to what that means, because that involves an interpretation of what are the benefits under the treaty, and my conception of the benefits that might accrue under the treaty grows out of the fact that it may provide a method to settle disputes without resort to war, which would be, of course, not only a benefit to the nations involved but a universal benefit.

As I said at the outset, while I think it is unfortunate the Secretary of State made no reference to the Monroe doctrine as a matter of precaution against any misunderstanding in the future, and while I think the Committee on Foreign Affairs ought to make, in its report, a specific reference to the Monroe doctrine and a declaration that we stand by that doctrine and do not waive it, yet I believe that such a declaration on the part of a responsible committee in its report on this treaty would be all that is necessary in order to serve notice on the world that in ratifying the treaty and becoming a party to it we recognize the obligation which we have for more than a century assumed under the Monroe doctrine. But in my present frame of mind I do not believe it is necessary to attach to the treaty itself a reservation stipulating that interpretation of the treaty.

Mr. REED of Missouri. So that I may be perfectly understood, I know of nobody that is insisting upon attaching a reservation. So far as I know—and I can only speak from such conversations as I have had—everybody would be content if the committee would make a clear-cut report saying that our interests are not affected as to the Monroe doctrine, that we are not obligated by the treaty, directly or indirectly, to make war in enforcement of it or bound by the terms of any other treaty. That would be satisfactory. It would be satisfactory to have a separate resolution passed by the Senate after the treaty is ratified saying that in having ratified the treaty the Senate did so with the full intent to maintain these rights and stipulations. I am not particular about the language. I am appealing to the Senator, who is just as earnestly desirous of protecting the welfare of his country as anyone could be, that as we are making a perpetual treaty with all the nations of the world, and as every other nation has seen fit to safeguard its particular interests, whether we ought not in some formal way to express the will of the Senate, either through its committee or by its resolution.

What the Senator said on the floor of the Senate is his construction. What I may say will be my construction. We will differ as to certain points, though not as to everything. Other Senators will differ, and therefore the individual statements of Senators do not go very far in the construction of a treaty; but an official resolution of the Senate or an official report of the committee is taken, if not as authoritative and binding, at least as highly persuasive.

So I hope the Senator will help us to insist upon these safeguards. Once they are added I do not care how soon the treaty is ratified.

Mr. BARKLEY. I sincerely hope that some understanding may be arrived at that will be satisfactory to all Senators, at the same time guarding against the impression that we have ratified the treaty with our fingers crossed. I think if we ratify the treaty we ought to do it ungrudgingly; we ought to do it in the hope that it will accomplish the purpose in the minds of those who are responsible for it.

That brings me to just a few concluding remarks upon the suggestion which has been made that this is a mere gesture. Of course, the field for discussion of gestures is almost as inexhaustible as the field for discussion of the treaty itself. It might be said that the mobilization of the Russian Army on the frontier in August, 1914, was a gesture.

The responsible officials of Russia contended then, and the record still shows they contended, that they were seeking peace, but they were making an unfriendly gesture by the mobilization of their armies on the frontier. Sending the Army of Germany down to the Belgian frontier in case it might be needed there for sudden emergencies was a gesture. Germany then contended that it was only in self-defense or only for the purpose of preserving peace. It might be said that the circumnavigation of the globe by the American Navy a few years ago was a mere gesture for the purpose of parading the power and the might of this Nation before the world.

I have just been reading a very interesting book, Meet General Grant, by William E. Woodward. In that book, in discussion of the Mexican War with which President Lincoln, then a Member of Congress, did not agree and against which he voted, with which General Grant himself never had any sym-

pathy although he fought in it, the statement was made that the Army of the United States was moved down to the western Louisiana border and camped there for months as a mere gesture in case something did happen, or perhaps hoping that something would happen to it that would be a casus belli. That was a gesture, of course, but it was an unfriendly gesture.

If the world has been, century after century, making gestures of one sort and another that have led to war, that were bellicose in their nature and in the very nature of their circumstances productive and not preventive of war, it is not entirely out of place, after 10,000,000 of the world's best men have been sacrificed in an effort to settle disputes that might well have been settled by peaceful means instead of through five years of bitter warfare—after more money have been expended in the perpetration of warfare, both offensive and defensive, than is represented by the value of all the property in the United States—it seems to me not out of place that we should make a gesture in the direction of peace, one that may ultimately create a psychological condition in the minds of all the men and women of the world that may abolish war as an effective measure and as an instrument of national policy, instead of fostering it and encouraging it as it has been done throughout the history of the world.

Mr. FESS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Kentucky yield to the Senator from Ohio?

Mr. BARKLEY. I yield.

Mr. FESS. I have heard it stated often that this can not be more than a mere gesture. I am wondering whether the denunciation of war by every nation of the earth and a solemn pledge not to resort to warlike methods to settle disputes by every nation of the world can be considered only a mere gesture.

Mr. BARKLEY. I, of course, do not agree with the suggestion that it is a mere gesture. I am attempting to reply to that suggestion by undertaking to measure this gesture, even if it is a gesture, against the thousands of gestures that have been made throughout the bloody history of mankind that have led to war, the destruction of property, and to the loss of human life. If we are to measure these things according to the character of the gesture, I am willing now and then to place up against the war gesture at least one peace gesture that might result in happiness to the human race. Many human lives have been lost as a consequence of a gesture made toward the hip pocket. It may have been a pure bluff. It may have been by design. It may have been based on the knowledge that in the hip pocket was something that would take life. But many a time a human life has been lost by an idle or foolish gesture to the hip pocket because the other party to the quarrel had a right to defend himself if he thought his life in danger.

Mr. REED of Missouri. I have not seen it as often as the Senator from Kentucky, because I come from a peaceful State. [Laughter.]

Mr. BARKLEY. The State of Missouri is inhabited very largely by Kentuckians and I do not think their nature has been denatured by their transfer to Missouri. They have contributed to the civilization of that State.

Mr. REED of Missouri. The best people of Kentucky, the most peaceful, came to Missouri.

Mr. BARKLEY. The State of Kentucky, until a few years ago, gave Missouri every governor which she had from the time of her admission to the Union almost and nearly all of her United States Senators.

Mr. REED of Missouri. We got most of the cream.

Mr. BARKLEY. We are still milking and have a few cows and much cream left.

Mr. REED of Missouri. I know that, for we have the Senator as an example.

Mr. BARKLEY. I am not making personal allusions.

Mr. REED of Missouri. Oh, no.

Mr. BARKLEY. And, of course, my illustration was not based entirely upon my experience in Kentucky. I was speaking of a universal condition.

Mr. REED of Missouri. The Senator's illustration is very good. There are gestures and gestures, but frequently we are led aside by illustrations. Of course, when Russia mobilized her army it was not a gesture; it was a threat. It was the first step toward striking. When Germany mobilized her troops on the frontier of Belgium that was not a gesture; that was the first advance toward war. In those instances one could use the term "gesture," but not in the same sense in which we are using it here.

If we were going to make a real movement toward peace, if we were really going to do something, if we were really going to back up our professions by some substantial act, then we ought to be doing more than merely saying that we are going to keep the peace. We ought to be taking a substantial step toward it, and the first step would be to begin reducing the great armaments of war that are in constant preparation. I think the reason this is described as a "gesture"—and I do not like the term; we might use the term "hypocrisy" better—is that it is——

Mr. BARKLEY. I do not think that term would fit even as a substitute for "gesture," and I am not willing by silence on my part to seem to admit that this treaty is a matter of hypocrisy. I think it is a matter of genuine desire among the people of the world.

Mr. REED of Missouri. Exactly; among the people; but if while we were taking this action we were agreeing to reduce armaments, then our acts would be consistent with our professions. When we are professing to abandon war as a national policy, and Japan is building 50 submarines—I understand the most powerful ever designed—and is also building many cruisers; when Great Britain is preparing to cover the seas with a swarm of cruisers; when Italy is enlarging all of her armaments; when we can absolutely hear their hammers beating and formulating instruments of death; and at the same time we say we will never fight and we are renouncing war as an instrument of national policy, hypocrisy may be a harsh term; but I wish the Senator could think of a gentler one.

Mr. BARKLEY. It may be a situation in which even those nations hope for the best and prepare for the worst. I do not think that the United States of America can be truthfully accused of hypocrisy by a refusal to reduce her armaments. I doubt whether anybody can successfully contend that we have not in good faith carried out the obligation into which we have entered with reference to a reduction of armaments.

Mr. REED of Missouri. Exactly. We have reduced our armament. We sunk $500,000,000 worth of the finest fighting ships ever conceived; the other nations sunk but a few. When we sent our ships to the bottom they proceeded to build a great number of ships, and we said to them, "Will you not, please, stop that? Our desire was to reduce armaments." They replied, "Well, you did not nominate it in the bond; we have a right to build them, and we are going to build them." When they got us to agree to abandon the island of Yap, which was to be the half-way house between the Philippines and the United States, they drew a crooked line through the seas so that they could go on and build great fortresses and command the waters of the eastern seas. The Senator might turn his statement of a while ago around, that we make a gesture of peace but prepare for eventualities, and he might say that we prepare for war and make a gesture of peace.

Mr. BARKLEY. I do not desire at this time to enter into any discussion of the question of naval armament; we shall have that matter before us in a few days, and I think any discussion of that question might be more appropriate then than now; but assuming that the Senator is correct, that while we have kept the bond and while it may be that other nations have kept it in a technical sense but have circumvented it by increasing their armaments in some directions not covered by the disarmament treaty, I believe that it will be easier for those nations to find an excuse to use those armaments in the absence of this treaty than it will be for them to find an excuse to use them if the treaty shall exist.

Admitting that the obligation of this treaty is largely moral, it is impossible to eliminate moral obligations in the structure of society. There are certain moral obligations in civilized society that could not be enforced in any court of law, and yet they are well recognized in our standards of life. If we place upon this treaty the construction that it is only moral in its obligations, I am optimistic enough to believe that there will be more reason for acknowledging and accepting that moral obligation if this treaty shall be entered into unreservedly and whole-heartedly than if it is not. There would be infinitely less excuse for the very nations which are in the mind of the Senator from Missouri to use their increase of armament, being a party to this treaty, than would be possible if the treaty did not exist. Therefore I am going to vote for the treaty. I am going to vote for it in such form as may be accepted by the world as a whole-hearted acquiescence on the part of the United States in this effort to bring about universal peace. I am going to vote for it in the hope that its application will be the realization of the dream of countless millions of men and women who now look and have heretofore looked forward to the day when war may be abolished as an instrument of policy among the nations of the earth, just as humanity and society in every civilized nation have abolished the duel as an instrument of policy in the settlement of private disputes.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KING in the chair). The absence of a quorum being suggested, the Secretary will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Ashurst	Frazier	McMaster	Sheppard
Barkley	George	McNary	Shipstead
Bayard	Gerry	Mayfield	Simmons
Bingham	Gillett	Metcalf	Steck
Black	Glass	Moses	Steiwer
Blaine	Glenn	Neely	Stephens
Blease	Goff	Norbeck	Swanson
Borah	Greene	Norris	Thomas, Idaho
Brookhart	Harris	Nye	Thomas, Okla.
Broussard	Harrison	Oddie	Trammell
Bruce	Hastings	Overman	Tydings
Capper	Hawes	Phipps	Tyson
Caraway	Hayden	Pine	Vandenberg
Couzens	Heflin	Pittman	Wagner
Curtis	Johnson	Ransdell	Walsh, Mass.
Deneen	Jones	Reed, Mo.	Warren
Dill	Kendrick	Reed, Pa.	Waterman
Edge	Keyes	Robinson, Ark.	Watson
Edwards	King	Robinson, Ind.	Wheeler
Fess	La Follette	Sackett	
Fletcher	McKellar	Schall	

Mr. WHEELER. I desire to announce that my colleague [Mr. WALSH of Montana] is detained from the Senate by illness.

The PRESIDING OFFICER. Eighty-two Senators having answered to their names, a quorum is present. The Senate, as in legislative session, will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House insisted upon its amendments to the bill (S. 3581) authorizing the Commissioners of the District of Columbia to settle claims and suits against the District of Columbia, disagreed to by the Senate; agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ZIHLMAN, Mr. UNDERHILL, and Mr. GILBERT were appointed managers on the part of the House at the conference.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 15569) making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1930, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. SHREVE, Mr. TINKHAM, Mr. ACKERMAN, Mr. OLIVER of Alabama, and Mr. GRIFFIN were appointed managers on the part of the House at the conference.

APPROPRIATIONS FOR THE STATE AND OTHER DEPARTMENTS

As in legislative session,

The PRESIDING OFFICER (Mr. KING in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 15569) making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1930, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. JONES. I move that the Senate insist on its amendments, accede to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. JONES, Mr. WARREN, Mr. SMOOT, Mr. BORAH, Mr. OVERMAN, and Mr. HARRIS conferees on the part of the Senate.

SENATOR FROM TEXAS

Mr. SHEPPARD presented the credentials of TOM CONNALLY, chosen a Senator from the State of Texas for the term commencing March 4, 1929, which were read and ordered to be placed on file, as follows:

CERTIFICATE OF ELECTION

STATE OF TEXAS.

This is to certify that at a general election held in the State of Texas on the first Tuesday after the first Monday in November, A. D. 1928, being the 6th day of said month, TOM CONNALLY having received the highest number of votes cast for any person at said election for the office hereinafter named, was duly elected as United States Senator for the State of Texas.

In testimony whereof I have hereunto subscribed my name and caused the seal of State to be affixed at the city of Austin on this the 19th day of December, A. D. 1928. DAN MOODY, *Governor.*

By the governor:

[SEAL.] JANE Y. MCCALLUM,
Secretary of State.

PETITIONS AND MEMORIALS

As in legislative session,

Mr. CAPPER presented a resolution adopted by the board of directors of the Crawford County (Kans.) Retailers' Association, protesting against the passage of legislation eliminating the Pullman surcharge in transportation, which was ordered to lie on the table.

Mr. GREENE presented petitions of sundry citizens of Wolcott, Coventry, Orleans, Newport, Irasburg, North Bennington, Derby, Swanton, Rupert, West Rupert, and Barre, all in the State of Vermont, praying for the ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were ordered to lie on the table.

Mr. JONES presented petitions, numerously signed, by citizens of Tacoma, Creston, Olympia, Puyallup, Bellingham, Spokane, and Bremerton, and of sundry other citizens and organizations, all in the State of Washington, praying for the prompt ratification of the so-called Kellogg multilateral treaty for the renunciation of war, which were ordered to lie on the table.

NAVAL CRUISER PROGRAM

Mr. WAGNER. Mr. President, I present a communication, with accompanying resolutions, from the New York Commandery, Military Order of Foreign Wars of the United States, in relation to the proposed naval cruiser program, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the communication, with the accompanying resolutions, was ordered to lie on the table and to be printed in the RECORD, as follows:

MILITARY ORDER OF FOREIGN WARS OF THE UNITED STATES,
NEW YORK COMMANDERY,
New York, January 8, 1929.

Hon. ROBERT I. WAGNER,
United States Senate, Washington, D. C.

MY DEAR SENATOR: The Military Order of Foreign Wars of the United States, New York Commandery, has, at a formal meeting thereof, unanimously adopted the inclosed resolution. We can not speak for our numerous commanderies in Canada, China, France, and throughout the United States, but we do speak, and most emphatically, in favor of the so-called 15 cruiser naval bill, as reported out of the Committee on Naval Affairs.

As we know war at first hand and the suffering, during practically all of our wars, from lack of preparedness, so we, American officers of foreign wars in which the United States has participated, expect of those who represent us a reasonable and strong defense. We do not desire in days to come to be forced to rely for defense, for a period of one year, upon the strength of other nations; but, on the other hand, this country should stand reluctant but able to fight when and if the occasion arises. There are none who desire peace more than those 4,335,000 men who participated in the late war, and it is only in fairness to them and to the younger generation who will take our places that you, the men whom we have chosen to represent us in Washington, stand for adequate national defense and vote in favor of the 15 cruiser bill.

The President of the United States in his Armistice Day message to Congress declared that "it is obvious that, eliminating all competition, world standards of defense require us to have more cruisers."

We are confident that you will support this measure in the performance of the great trust you assumed when you took your office.

Very sincerely yours,

NOEL BLEECKER FOX,
Colonel, Field Artillery Reserve, Secretary.

NEW YORK, N. Y., *December 14, 1928.*

Whereas it is the decided opinion of the President of the United States of America that the proposed naval cruiser program be adopted by the Congress of the United States and be enacted to support the national defense provision of our Federal statutes under the national defense act of 1920 and the additions thereto; and

Whereas the President of the United States of America has recommended to the Congress the enactment of a bill to provide for such a program in conformity with the so-called Washington conference, held during the year 1922 at Washington, D. C., which limited only the building of capital ships and not auxiliaries; and

Whereas the enactment of such a law would tend to place this Nation on a parity with all of the other signatories to that agreement in the proper ratios therein designated and that such passage and adoption is absolutely essential to the maintenance of our Navy, the relation which we bear as a nation to the other nations, signatories to the above-mentioned agreement and others, as well as to the national welfare and to the defense of the United States of America; and

Whereas the resolution hereinafter referred to has been unanimously adopted by the Council of the New York Commandery: Now, therefore, be it

We, members of the New York Commandery of the Military Order of Foreign Wars of the United States at the annual meeting hereby recom-

mend: That the said naval cruiser program, as passed by the House of Representatives, March 17, 1928, be enacted; and it is further

Resolved, That a copy hereof shall be sent to the Hon. Calvin Coolidge, to the chairman and the members of the Naval Committee of the United States Senate, and the two United States Senators from the State of New York.

DIVERSION OF COMMERCE FROM AMERICAN PORTS

Mr. WALSH of Massachusetts. Mr. President, during the past session of the present Congress there was much discussion in the Senate with reference to the serious extent to which American ports were losing export business because of the difference in the methods of inspecting grain for export here and in Canada, the difference in rail and ocean freight rates, and because of the preferential custom regulations being imposed by the Canadian Government.

I have a communication which very directly indicates the aggressive attitude of the Canadian Government in increasing business at its ports to the increasing injury of American port business by preferential customs or tariff regulations, and I ask that this letter be printed in the CONGRESSIONAL RECORD and referred to the Finance Committee.

There being no objection, the letter was referred to the Committee on Finance and ordered to be printed in the RECORD, as follows:

MARITIME ASSOCIATION OF THE
BOSTON CHAMBER OF COMMERCE,
Boston, Mass., January 7, 1929.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

MY DEAR SIR: For your information, the Canadian Dominion Government has recently imposed a duty of 50 cents per bunch on bananas imported to Canada through United States ports. No such duty is imposed if the bananas are imported through Canadian ports.

This will cause the diversion to Canadian ports of a substantial volume of business that has previously been handled through the port of Boston by the United Fruit Co.

The port record for the year 1928 indicates that 100,000 bunches were handled through Boston destined to points in Canada.

This is another instance of preferential customs regulations imposed by Canada to force traffic through the ports of that country.

Yours very truly,

F. S. DAVIS, *Manager.*

PAY OF CERTAIN GOVERNMENT EMPLOYEES

Mr. BROOKHART, from the Committee on Civil Service, to which was referred the bill (S. 5148) to amend section 13 of the act of March 4, 1923, entitled "An act to provide for the classification of civilian positions within the District of Columbia and in the field services," as amended by the act of May 28, 1928, reported it without amendment and submitted a report (No. 1416) thereon.

REPORT OF A NOMINATION

Mr. JONES. As in closed executive session, I ask leave to present a certain nomination from the Committee on Commerce for the calendar.

The PRESIDING OFFICER. The nomination will be received and placed on the Executive Calendar.

ENROLLED BILLS PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that to-day, January 10, 1929, that committee presented to the President of the United States the following enrolled bills:

S. 3779. An act to authorize the construction of a telephone line from Flagstaff to Kayenta, on the Western Navajo Indian Reservation, Ariz.; and

S. 4616. An act to legalize the existing railroad bridge across the Ohio River at Steubenville, Ohio.

BILLS AND JOINT RESOLUTION INTRODUCED

As in legislative session,

Bills and a joint resolution were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WAGNER:

A bill (S. 5273) to extend the benefits of the World War veterans' act, 1924, as amended, to John Melville; to the Committee on Finance.

By Mr. DILL:

A bill (S. 5274) granting a pension to Charles N. Raybourn; and

A bill (S. 5275) granting a pension to Mary Elizabeth Sherlock; to the Committee on Pensions.

By Mr. GEORGE:

A bill (S. 5276) granting compensation to Dempsey Stoney Edenfield; to the Committee on Claims.

By Mr. JOHNSON:

A bill (S. 5277) for the relief of William Goodwin (with an accompanying paper); and

A bill (S. 5278) for the relief of William D. Grusch (with accompanying papers); to the Committee on Military Affairs.

By Mr. NEELY:

A bill (S. 5279) granting a pension to Henry E. Liepmann; to the Committee on Pensions.

By Mr. WALSH of Massachusetts:

A bill (S. 5280) for the relief of Michael J. Moran; to the Committee on Military Affairs.

By Mr. ROBINSON of Indiana:

A bill (S. 5281) granting a pension to Susan A. Miller; to the Committee on Pensions.

A bill (S. 5282) granting compensation to Lawrence F. Morris; to the Committee on Finance.

By Mr. SHIPSTEAD:

A bill (S. 5283) for the relief of Gustave C. Wetterlind; to the Committee on Claims.

A bill (S. 5284) granting an increase of pension to Carrie M. Quinlen (with accompanying papers); and

A bill (S. 5285) granting an increase of pension to Helen L. Sarver (with accompanying papers); to the Committee on Pensions.

By Mr. NORRIS (for Mr. HOWELL):

A bill (S. 5286) granting a pension to Helen Bruner; to the Committee on Pensions.

By Mr. SHORTRIDGE:

A bill (S. 5287) for the relief of Adam Augustus Shafer;

A bill (S. 5288) for the relief of Patrick O'Brien; and

A bill (S. 5289) for the relief of James Jackson; to the Committee on Naval Affairs.

A bill (S. 5290) granting a pension to Richard C. Baalke;

A bill (S. 5291) granting a pension to Max Batoski; and

A bill (S. 5292) granting an increase of pension to Mary L. Greenwood; to the Committee on Pensions.

A bill (S. 5293) for the relief of Edwin Black;

A bill (S. 5294) for the relief of William Kelley;

A bill (S. 5295) for the relief of William Rose; and

A bill (S. 5296) for the relief of Charles B. De Crevecoeur; to the Committee on Military Affairs.

By Mr. WATSON:

A bill (S. 5297) granting a pension to Margaret Dunn (with accompanying papers); and

A bill (S. 5298) granting a pension to Clyde Woodson (with accompanying papers); to the Committee on Pensions.

By Mr. SHEPPARD:

A bill (S. 5299) for the relief of Paul C. Christian (with accompanying papers); to the Committee on Military Affairs.

By Mr. McKELLAR:

A bill (S. 5300) to amend section 250 of the Code of the United States (Judicial Code, sec. 145) by adding a new section (sec. 4); to the Committee on the Judiciary.

By Mr. SHORTRIDGE:

A joint resolution (S. J. Res. 190) appointing John J. Steadman a member of the Board of Managers of the National Home for Disabled Volunteer Soldiers; to the Committee on Military Affairs.

AMENDMENT TO AGRICULTURAL APPROPRIATION BILL

Mr. BROOKHART submitted an amendment intended to be proposed by him to House bill 15386, the Agricultural Department appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed, as follows:

On page —, after line —, insert the following new section:

"SEC. 2. The provisions of section 5 of the act entitled 'An act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1894, and for other purposes,' approved March 3, 1893, as amended, with respect to the granting of annual and extended leave to clerks and employees of the executive departments, shall apply to the clerks and employees of the Department of Agriculture who are assigned to duty outside of the city of Washington but within the limits of the continental United States, excluding Alaska."

AMENDMENTS TO FIRST DEFICIENCY APPROPRIATION BILL

Mr. McKELLAR submitted amendments intended to be proposed by him to House bill 15848, the first deficiency appropriation bill, 1929, which were referred to the Committee on Appropriations and ordered to be printed, as follows:

On page —, line —, strike out the period, insert a colon, and add the following proviso:

"Provided, That no interest allowed by the Bureau of Internal Revenue shall be authorized to be paid out of this appropriation."

On page —, line —, strike out the period, insert a colon, and add the following proviso:

"*Provided further,* That the Court of Claims now having jurisdiction over all claims for tax refunds, no part of the appropriation herein made shall be available for paying any tax refunds in excess of $5,000."

On page —, line —, strike out the period, insert a colon, and add the following proviso:

"*Provided,* That no part of the appropriation herein made shall be available for paying any tax refund in excess of $10,000 until all the papers and proof in reference to the claim for refund have been submitted to the Joint Committee on Internal Revenue Taxation and approved by a majority of all the members of said committee."

On page —, line —, strike out the period, insert a colon, and add the following proviso:

"*Provided further,* That no part of this appropriation shall be used to pay the claim of any claimant employing a former agent of the Bureau of Internal Revenue who had, or might have had, anything to do with the assessment or reassessment complained of, or who had any jurisdiction over any assessment or reassessment of the original, or additional taxes assessed, concerning which there is a dispute while such attorney or agent representing such claimant was employed by the Internal Revenue Bureau."

On page —, line —, strike out, after the word "provided," all of the proviso and insert in lieu thereof the following:

"3. The Commissioner of Internal Revenue, under regulations prescribed by the United States Board of Tax Appeals, shall certify on the 1st of January, April, July, and October of each year all claims for refunds of taxes where the amount claimed is more than $500 and where the commissioner recommends a refund or repayment. There shall also be ratified with such claims all the papers and proof in reference to such claims, with the recommendations of the Commissioner of Internal Revenue thereon, whether such claims arise from illegality of assessment, of collection, of penalties, or of unjust or excessive taxation. Where the amount of such claim is more than $500, should the commissioner not recommend the refund, the taxpayer shall have the right to appeal from the commissioner's refusal to recommend to the United States Board of Tax Appeals in like manner, and in such cases the commissioner will certify the claim, papers, and proof to said United States Board of Tax Appeals. The action of the United States Board of Tax Appeals, which is hereby given full and complete jurisdiction to hear and determine such claims on the merits, with the right of either Government or the taxpayer to submit additional proof, shall be final in all such cases certified by the commissioner or appealed by the taxpayer. All claims of refunds for less than $500 shall be refunded by the Commissioner of Internal Revenue under regulations prescribed by the United States Board of Tax Appeals. In all cases where a judgment or a decree of a court is obtained against any collector or deputy collector for any internal-revenue tax collected by him or for the costs and expenses of the suit, or where damages are assessed against any assessor, deputy assessor, collector, deputy collector, or agent by reason of anything in the performance of his official duty, the Commissioner of Internal Revenue is directed to certify such judgment to the Congress for payment as now prescribed by law."

VICTORIES OF INDEPENDENT TUBE MAKERS IN THE COURTS

Mr. DILL. Mr. President, as in legislative session, I ask unanimous consent to have printed in the RECORD a statement by Mr. Oswald Schuette on the subject of "Victories of Independent Tube Makers in the Courts" in the finding of patents invalid.

The VICE PRESIDENT. Without objection, it is so ordered.

The matter referred to is here printed, as follows:

Although the independent radio manufacturers of the United States complain that they have had no help from the Department of Justice, or the Federal Trade Commission, or the Federal Radio Commission in their fight against the Radio Corporation of America, the American Telephone & Telegraph Co., the General Electric Co., the Westinghouse Electric & Manufacturing Co., and the United Fruit Co.—whom they charge constitute the Radio Trust—these independent manufacturers have won three important victories in the Federal courts in the last three weeks.

The most recent of these was the refusal on Monday by the United States Supreme Court to grant a writ of certiorari to review the decision of the Circuit Court of Appeals for the Third Circuit holding the products claims of the so-called Coolidge ductile tungsten patent to be invalid. This was an important decision to the independent radio tube makers. The lower court upheld the validity of the Coolidge patent so far as its process claims were concerned, but none of these tube makers, I am informed, were interested in this as they did not manufacture their own tungsten. The General Electric Co., as owner of the patent, had asked the courts to extend the patent over the use of the product and had charged the DeForest Radio Co. with infringing the Coolidge patent because it used ductile tungsten in its tubes. The lower court held that nature had put the ductility in tungsten, and that all that Coolidge had done had been to invent a process for purifying tungsten ores and that therefore he could not have a patent on anything more than the process itself.

A week ago the Supreme Court made an even more important decision when it refused to grant a rehearing on a previous refusal of a writ of certiorari in what has become one of the most famous of recent cases under the Clayton law—the so-called Tube Clause case. The members of the alleged Radio Trust had made a patent license agreement with 25 manufacturers of radio sets, covering the manufacture of something like 75 per cent of all the radio sets made in the United States, and requiring them to purchase from the Radio Corporation of America all of the tubes needed "initially to operate" their sets. The independent tube makers obtained a preliminary injunction from Judge Morris, of the United States District Court of Wilmington, Del., forbidding the enforcement of this clause as a violation of the Clayton Act. Judge Morris held that the Radio Corporation of America by means of this clause had undertaken to create a monopoly in the manufacture of radio tubes. This decision had been upheld by the Circuit Court of Appeals for the Third Circuit, and it was this decision which the Supreme Court had refused to review.

Although this preliminary injunction was in the nature of an emergency injunction, granted a year ago under the express provisions of the Clayton Act, to prevent a powerful combination from destroying a smaller competitor while the courts might pass upon the legality of such a clause, the United States Circuit Court of Appeals held the case on appeal for almost eight months without a decision, during which time the injunction was inoperative. Such a delay in an appeal on an emergency injunction almost defeated the purpose for which the injunction was granted, for it left the illegal clause in full operation during a critical time in the radio business. However, the independent tube makers, through their organization, the Radio Protective Association, took the question to the court of public opinion and had succeeded in calling so much public attention to the iniquity of the contract by which the so-called Radio Trust had undertaken to destroy the independent radio tube industry that the Radio Corporation of America was forced to suspend this tying clause.

Three months before the United States Circuit Court of Appeals validated the injunction, the Radio Corporation notified all of these manufacturers who had signed the contract that it would not enforce the tube clause until the case had been finally adjudicated. This was just what Judge Morris had ordered them to do eight months before and what they had succeeded in avoiding by their appeal. As a result the independent tube industry immediately reopened its plants and is now sharing in the great prosperity of the radio business.

This fact is highly important, as the tube is the heart of modern radio. Had the corporations which make up this radio monopoly been able to destroy the independent tube makers, their control of the industry would have been complete.

The third decision won by the independent radio manufacturers in the last three weeks, was handed down by the United States District Court of New Jersey holding four patents of the General Electric Co., on tube-making machinery to be invalid because the devices they pretended to cover were too trivial to be called inventions. The General Electric Co. had sued the Eisler Engineering Co., of Newark, on 12 patents used in making tipless tubes. Four of these patents were held last summer to be either invalid or noninfringed. Four of the other suits were withdrawn. The last decision covered the remaining four patents. The court held that none of these rose to the dignity of an invention and quoted a previous decision which declared "the design of the patent law is to reward those who make substantial discovery or invention which adds to our knowledge or makes steps in advance in the useful art."

In declaring all four of these patents to be worthless the United States District Court in New Jersey concluded its decision by saying:

"There is nothing in any of the devices, machines, or methods referred to in the patents in suit that seem to rise to the realm of invention. The art is crowded, devices are many, novelty seems to characterize none. The bill will be dismissed with costs."

All these patents were part of the great patent pool made up by the companies which comprise this radio monopoly and it is by means of this patent pool they have tried to circumvent the antitrust laws and to destroy their independent competitors.

INTERVIEW WITH CHIEF JUSTICE TAFT

Mr. NORRIS. Mr. President, there was printed in the Washington Star of January 9 an interview with Chief Justice Taft, by Basil Manly, and, as it is an exceedingly interesting article, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CHIEF JUSTICE DEPLORES MATERIALISTIC ATTITUDE—CALLS LUST FOR WEALTH AND ORGANIZED CRIME MENACE TO CIVILIZATION—BACKS CONSTABULARY—STEADY IMPROVEMENT SEEN IN RELATIONS BETWEEN EMPLOYER AND EMPLOYEE

"What progress has the United States made in the 10 years since the war?"

"What tendencies of the present day should concern us as good American citizens?"

"Is the current trend of civilization forward or backward?"

These three vital questions were put to former President Taft, now Chief Justice of the United States Supreme Court, and are answered by him in the following interview he gave to Basil Manly. Mr. Manly served with Chief Justice Taft as joint chairman of the War Labor Board in 1918–19, and it is their long friendship which made it possible for Mr. Manly to get the interview.

By Basil Manly

Visiting the Chief Justice of the United States, I found him seated at his desk in the comfortable office of his Washington home. Before him lay the manuscript of his decision in one of the important cases now pending before the Supreme Court.

Seventy-one years old last fall, Chief Justice Taft to-day looks as hearty and almost as young as he did 16 years ago, when he left the White House.

What is the secret of his health and unflagging energy after half a century in the public service? The answer is easy—careful diet, moderate exercise, and a sense of humor which preserves the spirit of youth. The old, deep-throated chuckle and the wholesome laugh afford the relief which lightens the burden of presiding over the most august tribunal in the world.

The Chief Justice delights in this sense of humor. He pities and is amused by those who lack it.

"Have you read the diary of John Quincy Adams?" he asked. "It is charming. I am using it just now for my bedtime reading. I work until 9 and then read for an hour to put myself in the proper frame of mind for a good night's sleep. Adams was a great man, but he had no sense of humor. I get a good laugh out of almost every page of his self-revealing narrative."

After further pleasantries and reminiscences of war days and our experience on the War Labor Board I broached the principal subject of my visit.

"It is 10 years," I said, "since the end of the war. The world is still in a state of confusion, caused by that tremendous upheaval. Many of us whose function it is to view developments from day to day are perplexed to know in what direction it is moving. Are we going forward or are we, as some pessimistic commentators proclaim, losing our hold upon the fundamentals of civilization and falling constantly backward? What developments or tendencies do you see that should particularly concern us as good American citizens?

APPRAISAL IS GUESS

"By virtue of your experience and the detached position which you occupy, you have a perspective which most of us lack and which is necessary to any sound judgment."

"Any appraisal of the trend of our civilization," the Chief Justice replied, "can be nothing better than a guess. We are still too near the cataclysmic eruption that shook the whole world during the four years of the war for anyone to venture an assured opinion on the general trend of the great forces which sway the destiny of this and every other nation.

"As you know," Mr. Taft continued, "I am always an optimist, and I firmly believe that the American people will find a way to solve the perplexing problems which now beset them. Nevertheless, there are conditions confronting us to-day which merit the consideration of every citizen who has at heart the welfare of the Nation and the future of his children and his children's children."

"What do you consider the most disturbing element in our national life?" I asked.

"It is difficult to describe precisely," the Chief Justice replied, "but it may be understood when I characterize it as the materialistic philosophy which places wealth and worldly success ahead of every other consideration in life. What can it profit a man to have accumlated millions if he has not at the same time maintained a clear conscience and acquired the good will and esteem of his fellow citizens?"

MENACES CIVILIZATION

"What relation, if any," I asked, "do you see between this lust for wealth at any cost and the problem of organized crime that is to-day challenging the government of every large city in the country?"

"There is a problem," the Chief Justice replied, "which unquestionably menaces our civilization. Our entire machinery of justice must be geared up to cope with it. Our police forces, our prosecuting organizations, and our court system must all be improved until we are able to subdue these criminal organizations.

"The aftermath of war, which made the destruction of human life a commonplace, and the great profits to be gained by preying upon our postwar prosperity, have combined to create a system of organized crime which should arouse every responsible American citizen.

"The Nation does not yet appear to be fully awakened to the seriousness of this problem. As a people we seem incapable of effective action until we are approaching a crisis. Do you remember Kipling's caustic lines giving his view of the American spirit?

"'That bids him flout the law he makes,
That bids him make the law he flouts,
Till, dazed by many doubts, he wakes
The drumming guns that have no doubts.'

"Unfortunately, there is some truth in them. It is only too clearly manifested in the flippant views of those who advocate or complacently condone the nullification of prohibition and other laws. To preach disrespect and disregard of laws duly enacted, even though they may be unwise, can have no other result than to encourage criminals.

MUST CAPTURE CRIMINALS

"We shall come through this crisis as we have through others even more grave, but to do so we must have the effective cooperation of all the forces of law and justice.

"First of all, we must detect and capture the criminals. This means a larger and better organized police force in every State and city. It will cost some money, but in proportion to the menace that confronts us it will be cheap at almost any price.

"Every State should, in my opinion, have an efficient constabulary," Mr. Taft asserted with a resounding thump on the desk to emphasize his point. "It should be organized not only to patrol the rural districts and the State highways, which have become of such great importance with the development of the automobile, but also to reinforce the police forces of towns and cities whenever conditions may make it necessary."

"But is it not true," I asked, "that the problem of convicting a criminal, especially if he is rich and powerful, is at least as difficult as catching him?"

"Unfortunately, it is," the Chief Justice replied. "It is a disgrace to our country that so many criminals with large resources at their command have been able to avoid paying the penalty for their misdeeds. At the basis of this situation lies our jury system, which must be improved if we are to obtain effective justice. We must find a means of getting intelligent and conscientious jurors who will not be mislead by ingenious attorneys or swayed by maudlin appeals to sympathy.

CRITICIZES DELAYS

"The administration of justice is the very basis of orderly government, and should command the support and cooperation of every thoughtful citizen, regardless of any temporary sacrifice or inconvenience which service upon grand juries or trial juries may entail.

"If we can perfect our police systems and our court procedure, I have no doubt that within a reasonable time we can bring under control even the most aggressive gangs which are now preying upon our cities and States."

Turning aside for the moment from this question of crime and legal administration, which naturally is of peculiar interest to the Chief Justice, and reverting to the important part he played in maintaining the Nation's industrial stability during the war, I asked:

"Do you regard the apparently steady improvement in the relations between employers and employees as a hopeful sign for the future?"

"I do," the former joint chairman of the War Labor Board replied. "It seems to me that American employers and the men whom they employ are nearer to an understanding of their common interests than at any time within our history. We still have Bourbon business men and extremists among the labor leaders, but the number of both these types, fortunately, appears to be decreasing year by year.

"One of America's greatest contributions to human progress has been the demonstration in a number of our industries that good wages and reasonable hours of labor are compatible with low costs of production. Thus the way has been opened for a constant improvement in the standard of living and the ultimate elimination of that abject poverty which was the curse of earlier centuries.

SEES MEDIATION GAINING

"The constant extension of voluntary conferences between employers and employees and the growing use of mediation and arbitration as a means of settling industrial disputes seem to indicate that the day may soon come when the old wasteful methods of industrial warfare will be practically abandoned for more intelligent plans of adjustment."

"Do you feel that equally satisfactory progress has been made since the end of the war in the field of international relations?" I asked.

"No intelligent man can view that field with complete satisfaction or complacency," replied the Chief Justice, who during the 20 years before he was appointed to the Supreme Court was one of the leading advocates of international arbitration and world peace.

"Nevertheless, we must have the patience to realize that the habits and traditions of centuries can not be changed in a day. Our system of civil and criminal jurisprudence, which is still far from perfection, was not created overnight, but was the product of the earnest thought of many generations. How can we, therefore, expect immediately satisfactory results in the international field, where every forward step is dependent upon the voluntary action of many nations with widely divergent interests and foreign policies?

"What is most important is not how fast we are moving, but whether, on the whole, we are going in the right direction. I believe we are. We can see in the events of each year new evidences that the masses of the people throughout the world have an ever-increasing appreciation of the horror, waste, and futility of war and are determined to find peaceful means of settling their international disputes.

"The nations are moving to a sense of obligation that nothing should be done of a critical nature until their authorized representatives have

had an opportunity to sit down around a conference table and attempt to reconcile their differences.

"That is the significance of the Locarno conference and the Kellogg pact for the outlawry of war. Both of these are important steps in the right direction. They have been taken because the governments of the leading nations have come to realize that the people want peace.

"We have no right to expect the millennium, but our present progress should lend encouragement to the thoughtful citizens of every nation to continue unabated their efforts to promote world peace and produce enduring international understandings." (Written exclusively for the Star and North American Newspaper Alliance. Copyright, 1929, by the North American Newspaper Alliance. All rights strictly reserved.)

STONEWALL JACKSON

Mr. OVERMAN. Mr. President, a few days ago the Senate ordered printed as a public document a short sketch of the life of Stonewall Jackson, by his granddaughter, who is a young lady about 15 years of age. In the print of the document her name is given as Mrs. Preston. I know she would not like to have such a mistake made. I ask that a reprint of the document may be ordered with a correction of the name, and that the document now on file in the Printing Office may be recalled.

The PRESIDING OFFICER (Mr. HASTINGS in the chair). Without objection, it is so ordered.

MAINTENANCE OF SENATE OFFICE BUILDING (S. DOC. NO. 197)

The PRESIDING OFFICER laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation, fiscal year 1929, pertaining to the legislative establishment, for the Senate Office Building, amounting to $8,400, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

MODELS FOR THE SUPREME COURT BUILDING (S. DOC. NO. 198)

The PRESIDING OFFICER laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation, fiscal year 1929, pertaining to the legislative establishment, under the Architect of the Capitol (models for the Supreme Court Building), amounting to $15,000, which, with the accompanying papers, were referred to the Committee on Appropriations and ordered to be printed.

HOUSE OF REPRESENTATIVES OFFICE BUILDING (S. DOC. NO. 199)

The PRESIDING OFFICER laid before the Senate a communication from the President of the United States, transmitting a supplemental estimate of appropriation, fiscal year 1929, pertaining to the legislative establishment, under the Architect of the Capitol, for the acquisition of a site and the construction of a fireproof office building for the House of Representatives, etc., amounting to $8,400,000, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

MULTILATERAL PEACE TREATY

The Senate, in open executive session, resumed the consideration of the treaty for the renunciation of war transmitted to the Senate for ratification by the President of the United States December 4, 1928, and reported from the Committee on Foreign Relations December 19, 1928.

Mr. BINGHAM. Mr. President, I do not intend to make a long address on a subject which has already been so fully discussed, but it seems to me that it is incumbent upon this body to know what the treaty means; and, as I see it, there are only three ways in which we can know and in which our friends and enemies, if there be any, can know.

One of those is by having something inserted in the treaty in the form of a reservation to it or an amendment to its articles, which would be unfortunate.

Another is in the nature of a resolution like that proposed by the Senator from New Hampshire [Mr. MOSES] and sponsored by my distinguished colleague the senior Senator from Connecticut [Mr. MCLEAN].

A third method would be by having the Foreign Relations Committee present a report as to what they believe this treaty means which they have advocated and asked us to ratify.

I desire to ask the chairman of the Foreign Relations Committee very earnestly whether he will not try to persuade his committee to make a report. It is customary, in the case of nearly all bills which we have on the calendar, for a printed report to accompany the bill. Very frequently when a bill on which there is no printed report comes up on the calendar some Senator will object that we ought not to consider the bill in the absence of a printed report from the committee. It is not necessary that the report be unanimous. Nevertheless it should certainly be a majority report.

I hope very earnestly that the members of the Foreign Relations Committee will agree to make a report, for otherwise we are left in a sea of doubt. We are surrounded by more or less envious peoples. We are like an ostrich in the desert, with our head in the sand, thinking that there is nothing in the wind against us. Let us recognize this fact and do something to interpret this treaty.

Never before in my short experience in this body have there been such violent differences of opinion with regard to two brief paragraphs as there are with regard to articles 1 and 2 of this treaty. They are not long.

Mr. BORAH. Mr. President, I do not think there is very much difference of view about the two articles. The differences of view arise out of inferences entirely outside of the articles and not justified by the articles.

Mr. BINGHAM. That is what I intended to convey. The differences of view are as to what the treaty means. We have on the one hand people like those good citizens who have recently been holding sessions in Washington with the motto, "The cruiser bill shall not pass, and the treaty must pass without reservation." They believe that if the treaty is ratified there will be no necessity for any more Army or Navy. They are honest in the belief that this treaty binds us not to make war and not to use force.

I had a letter this morning from a well-known citizen of New York, one of our most distinguished publicists, Mr. Samuel Colcord, who is known to a great many of you as having given a large part of his life to promoting peace and international good will, in which he says:

Whatever may be the merits or demerits of the cruiser bill, the multilateral treaty, which stands by itself, deserves the hearty support of every Senator.

Then he goes on to say:

A treaty in which all the nations of the civilized world pledge their sacred honors never to resort to war, but to settle their disputes by no other than peaceful means, is more than a gesture.

There is a distinguished citizen—and, if my recollection serves me correctly, a lawyer by profession—who takes the position that if we ratify this treaty we pledge our sacred honor never to resort to war, but to settle our disputes by no other than peaceful means. There are a great many other citizens who are in the same position.

The Rev. Henry Sloan Coffin, D. D., one of the most distinguished clergymen in this country, the president of the Union Theological Seminary in New York, in a sermon preached before the Yale students at the end of the last term, or perhaps it was on Armistice Day, November 11, stated that if we ratified this treaty we could not vote for any more cruisers without being absolutely and ridiculously inconsistent.

Mr. BORAH. Mr. President, I notice that so distinguished a citizen of New York as Doctor Dewey, who has a reputation on three continents as a great philosopher, said that if I supported this treaty and supported the cruiser bill I ought to be assigned to the psychopathic ward.

Mr. BINGHAM. The Senator has added another item of testimony to the fact that there is the very widest divergence of opinion.

Mr BORAH. I did not say "opinion."

Mr. BINGHAM. Well, Mr. President, it seems to me there is no question about the fact that opinions on this treaty differ as widely as the poles. I have been told by one Senator on this floor—not for publication—that he would vote for the treaty because he believed that if we ratified the treaty we could not send our cruisers into the heart of China, and we could not send cruisers and marines to Nicaragua in the case of disturbance, and we could not do a lot of things that he objects to our having done in the last few years. On the other hand, I have been told by another Senator that he is going to vote for the treaty because he believes it means nothing, and is merely a gesture, and does not restrict our action in any sense at all.

I have been told by still another Senator that he believes that if this treaty meant exactly what it said there would not be a dozen Senators on the floor to vote for it.

In other words, there is the very greatest divergence of opinion, Mr. President, even among Senators. In the United States we find an equal divergence of opinion among thinking men. Therefore it seems to me that it is very important that something be done to put us definitely on record, without equivocation, as to what the treaty means. Otherwise, I believe that in the future we shall be accused of rank hypocrisy, of bad faith, and of deceiving the nations of the world by our action in ratifying the treaty.

Mr. BORAH. Mr. President, does the Senator object to interruptions?

Mr. BINGHAM. Not at all.

Mr. BORAH. I do not know how a committee report would add anything to the clarity of the language which is employed in this treaty. The language of the first article says:

The high contracting parties solemnly declare in the names of their respective peoples that they condemn recourse to war for the solution of international controversies, and renounce it as an instrument of national policy in their relations with one another.

That language is perfectly plain and simple. It can not in reason be misunderstood. It means that the nations hereafter propose to reject war among themselves for the settlement of international controversies. They do not propose to appeal to war. They reject it as a method of settling controversies. That is the meaning of the language. That is what it says. I do not see how there can be any misunderstanding about it.

The second proposition is:

The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means.

That is to say that a nation having a controversy with another nation will not seek settlement through war; it will not seek settlement through violence; it will seek settlement only through pacific means, through peaceful means. It may not reach a settlement, but it pledges itself not to employ war, but simply to seek it through peaceful means. What could a committee report add to that?

Mr. BINGHAM. Mr. President, the Senator knows that it is customary in the case of all bills for a printed report to accompany the bill when it comes before the Senate, even though the chairman of the committee explains the bill fully on the floor. The Senator knows, as he himself has called to the attention of the Senate, that in the Supreme Court it has been held, in the interpretation of a law, that the remarks of a Senator or a Member of the House of Representatives when the bill was being considered are not to be used in the interpretation of that bill. But the Supreme Court has also held that the report of a committee, made when the bill was being considered and recommending its passage, is evidence of what is meant. Interpretations of what the treaty means have differed on the floor of the Senate; and some interpretations given orally, in reply to questions, have been more or less altered so as to give a somewhat different tone to the interpretation.

Obviously there is need of interpretation. Even the divergences in the interpretation accepted by lawyers differ as widely as the poles.

Mr. SHIPSTEAD. Mr. President——

The PRESIDING OFFICER (Mr. FRAZIER in the chair). Does the Senator from Connecticut yield to the Senator from Minnesota?

Mr. BINGHAM. I yield.

Mr. SHIPSTEAD. Does the Senator think that divergence of opinion is due to a lack of clarity in the text of the treaty, or due to the interpretative notes that have been passed between various governments? Would the Senator think that if the treaty came before us in the complete original text without these interpretative notes there would still be such a great difference of opinion?

Mr. BINGHAM. I think there would, Mr. President, for this reason: A great many people reading the language, which is clear—I will say to the Senator there is no lack of clarity—particularly those whose minds run along the lines of internationalism, those who are members of the Non-Partisan Association for Adherence to the League of Nations, particularly those in favor of the League of Nations, read it in one way and say it means only what it says. Others, notably the distinguished chairman of the Committee on Foreign Relations, read it another way, and state, quite correctly, it seems to me, that it means far more than it says; that there is implied in this treaty the full right of self-defense, which includes the Monroe doctrine. Now, as I am about to show to the Senators, the various authorities on international law in regard to the interpretation of treaties give certain methods of interpretation which would seem to justify the position taken by Mr. Colcord and his brethren. Does that answer the Senator's question?

Mr. SHIPSTEAD. What I wanted to clear up was whether the Senator thought that the treaty itself needed explanation, taken away from the interpretative notes. I must confess that the only difficulty I have in reconciling my judgment and conscience with the treaty has come entirely from the interpretative notes that have been passed between the various governments. I have studied the argument of the very able chairman of the Foreign Relations Committee, whose opinions I always study and regard with the highest respect, and I have tried to come to an honest opinion in my own mind, to reconcile the text of this treaty with the interpretative notes. Up to this time I have been unable to do so. I say that with a great deal of regret.

Mr. BINGHAM. In other words, the Senator feels a good deal as does Professor Borchard, professor of international law in Yale University, who, in the address which he delivered at the Williamstown Institute of Politics last August, and which has been printed as a part of Senate Document No. 176, said:

We are now about to sign a treaty in which we expressly recognize the right of the other signatories to make war upon anybody, including ourselves, for the purpose of enforcing, even against us, their mutual obligations under the covenant of the League of Nations, not to mention individual undefined national interests in any part of the world. They alone will determine the occasion of such action, without our participation.

In justice to Europe it can not be said that they have left us in doubt as to their conception of our obligations. Indeed, these obligations are expressly or implicitly contained in the very reservations which the United States has accepted. Should we repudiate these commitments, we shall be denounced as a violator of our own treaty, and not without some justification.

It has not been a pleasant task to analyze this pact of Paris. The original American proposal was progressive, pure and simple, to use Mr. Kellogg's expression.

I assume the Senator agrees with that. Professor Borchard continued:

The European amendments transformed the proposal into something entirely different—into a universal sanction for war, into a recognition by us of Europe's right to wage war, even against the United States, whenever the individual interests of certain nations are deemed to require it and whenever the league, in its uncontrolled discretion, decides upon it.

Mr. BORAH. Mr. President, may I ask the Senator a question?

Mr. BINGHAM. Certainly.

Mr. BORAH. The Senator is a very able Senator, and has had experience in these matters. Does he find anywhere in this treaty that we sanction the right of a foreign nation to attack us?

Mr. BINGHAM. I do not.

Mr. BORAH. That is what Professor Borchard says.

Mr. BINGHAM. He is an international lawyer, and I am not. Perhaps he is right.

Mr. BORAH. The Senator says "perhaps." He does not think so?

Mr. BINGHAM. For what my opinion is worth, I do not think so.

Mr. JOHNSON. Mr. President, will the Senator yield?

Mr. BINGHAM. Certainly.

Mr. JOHNSON. Has the Senator read the book of Mr. David Hunter Miller in respect of this treaty?

Mr. BINGHAM. I regret to say that I have not.

Mr. JOHNSON. Mr. Miller is a gentleman for whom I have very high respect. He is an ardent advocate of the treaty. Yet he reaches some conclusions in his book that are puzzling and perplexing to me. May I read a paragraph to the Senator, or would he prefer that I do not at this time?

Mr. BINGHAM. I should be glad to have the Senator proceed to read the paragraph.

Mr. JOHNSON. I wanted to ask whether, with the intimate knowledge of international law the Senator has, he would agree with the conclusion Mr. Miller reaches in his very able work upon the peace pact of Paris. He says:

But suppose this happened; it seems to me rather remote, but perhaps it is not impossible. Some headstrong power, rejecting alike the advice of the league and the counsel of the United States, refuses arbitration or any other peaceful settlement of its controversy and goes on to war. The defiance of the covenant and the breach of the Briand-Kellogg treaty would be simultaneous.

I tried to put this question, but rather inaptly, to the Senator from Idaho the other day, before I had read these paragraphs, and he answered me with frankness and directness. Mr. Miller proceeds:

It is quite impossible to suppose that under such circumstances the United States would stand wholly aloof, issue the usual proclamation of neutrality, and treat the power that had rejected our advice and broken our treaty as being in all respects on the same footing as any other friendly nation.

Just what course the Government of the United States would take in such a case it is unnecessary to attempt to predict. The breaking of diplomatic relations with the violator, a policy of benevolent neutrality with the other side, and various other more or less drastic steps, all falling short of war, might be imagined; but an attitude of supine indifference to our own treaty is unimaginable.

Does the Senator agree with Mr. Miller's conclusion in that regard?

Mr. BINGHAM. It seems to me it is a very sound position, Mr. President.

Mr. JOHNSON. That takes us back, does it not, to the discussion in which we used to indulge nearly 10 years ago concerning the League of Nations as to the difference between legal obligations and moral obligations; and it leaves us, if that be accurate—I by no means say that it is—in the situation of having a moral obligation to act in case of the simultaneous breach of the league covenant and this treaty.

As I understood the Senator from Idaho the other day, there is neither legal nor moral obligation on the part of this continent, and he nods assent to that view. That was my view when I was addressing the query to him. These statements have more or less puzzled me.

Permit me to read one more paragraph, and then no longer will I occupy the time of the Senator. I do it in his behalf because here is an authority on international law, one who is an enthusiastic advocate of this pact, and yet in reaching his conclusions as to what the pact means, he has asserted just what I have read to the Senator, and then he asserts this:

> The treaty links the United States to the League of Nations as a guardian of the peace; it makes the aim of that institution and the aims of our foreign policy in the largest sense identical. It is not too much to say that the treaty in fact, though not in form, is a treaty between the United States and the league.
>
> It has often been said that the treaty has no sanctions, no means of enforcement. Textually this is correct enough; but the linking up of the United States with the League of Nations, the conjunction of the Briand-Kellogg treaty with the covenant, means that the sanctions of article 16 of the covenant have behind them the moral acquiescence of the United States; so that, lurking in the background of those sanctions, is the possible, though unexpressed but still potential attitude of the United States toward a power that flouts its promise. This is a very true sanction.

Does the Senator from Connecticut agree with that statement?

Mr. BINGHAM. I am not sure that I should agree with it, but I am very curious to know whether the chairman of the Committee on Foreign Relations agrees with it.

Mr. JOHNSON. I was going to propound the query to him. May I ask the Senator from Idaho if he agrees with that conclusion of Mr. Miller?

Mr. BORAH. No; I do not.

Mr. BINGHAM. Mr. President, the answer of the Senator from Idaho is another illustration of what I have been contending from the beginning of these remarks—that the friends of the treaty differ absolutely in its interpretation, and therefore there rests upon the Foreign Relations Committee the responsibility to present to us a report which shall put in clear language what they believe the treaty to mean. When we ratify it we can then point to their report and say, "That is what we meant when we ratified it." Otherwise, it seems to me we are sure to have the finger of scorn pointed at us in the future by those who disagree with our interpretation, and to be accused of hypocrisy and of bad faith.

Now, Mr. President, I think it is very significant that in the letters which I have received opposing the treaty there is not one from a military man or a naval man. No officer of the Army, no officer of the Navy, has ever spoken to me against this treaty. Officers who have talked to me have favored its passage.

Not a single manufacturer of my State or of any other State has approached me or written me opposing the treaty. Although the State of Connecticut during the war produced a very large amount of arms and ammunition used by the Allies and by the United States, and is known as the State where such great factories as the Remington, the Winchester, and the Colt single it out from other States as a place where arms are manufactured, not a single one of the officials of those companies, or any of their allied companies, or of any of their stockholders has objected to this treaty in any way, shape, or manner.

The objections have not come from militarists, military men, or those who manufacture arms; they have come from international lawyers and publicists. In other words, objections have come from men who desire peace with honor.

I have the highest regard for the gentleman who holds the chair of international law at Princeton, Professor Brown. I understand he is opposed to our ratifying the treaty without some kind of reservation or interpretation.

I also have a high regard for Professor Borchard. A day or two ago I received a letter from Professor Borchard, of Yale, a part of which I shall take the liberty of reading. He said:

> This is the first time in 10 years that I have ventured to differ from Senator BORAH in a matter involving our foreign policy. Just what has caused Senator Borah to espouse this treaty, the hollowness of which as a preventive of war he has openly admitted, I do not know. Perhaps it is the fascination exerted by the term "outlawry of war."
>
> At all events the original proposal of Secretary Kellogg has been so altered by the modification effected through the exceptions and qualifications contained in the exchange of notes, that the original proposal is not to be recognized in what has now been placed before the Senate. I can not believe that Senator BORAH seriously contends that the exceptions, qualifications, and interpretations embodied in the exchange of notes are not to be read in connection with the treaty; for in fact they record the scope of the obligations which the contracting parties undertake.
>
> Up to the present time it is the European countries that have defined the scope of their obligations and the exceptions to the words of the treaty which they propose to adopt. By our assent, we agree that the treaty limits their freedom of action no further than the limitations embodied in the exchange of notes.
>
> The United States, however, has not limited in any way the scope of the obligations subscribed, for the speech of Secretary Kellogg would, if interpreted by us later on, involve only recrimination against us.
>
> In order that we may do no more than what France and Great Britain have done, it seems to me almost essential that we should define the sense in which we understand the obligations incurred by the signature of the treaty. Nothing is stated in the treaty about the Monroe doctrine; nothing is stated in the treaty about the obligations of the League of Nations, except the French and British insistence that all the obligations of the League of Nations are binding upon them and are not to be construed as contrary to the peace pact.
>
> It is in this very respect that an interpretation or qualification or reservation on our part is essential. The French and British Governments, through their official newspapers, have made it all too clear that they regard this pact as binding us to support their commitments under the League of Nations and the Locarno treaties, if not other treaties. This aspect of the question does not seem to have troubled Senator BORAH, though to me it is the most significant part of the whole treaty. The treaty does in practical effect, and Europe has made that clear, tie us up irrevocably to the decisions of the League of Nations on any subject. Unless we now make it clear that we are not to be bound by decisions of the League of Nations we are certain to invite the most bitter recriminations in a future crisis, when they will ask us to support our treaty. The alleged violations of the League of Nations covenant will be certain to be charged as a violation of the peace pact.
>
> This whole enterprise, in my humble judgment, should not have been pursued after Mr. Briand undertook to outlaw only aggressive war. All that the peace pact now does is to leave Europe's hand entirely free to do anything it chooses, while at the same time committing us to the political enterprises of European statesmanship, reflected primarily, perhaps, in the decisions of the League of Nations. There are no advantages in the treaty for the United States, but only disadvantages; and the cause of peace, as I think Senator BORAH practically admitted, has made no material advance.
>
> While refusal to ratify would, perhaps, incur recriminations, we invite even greater recriminations if we do not now specifically state the interpretation that we place upon the obligations now subscribed. For that reason it is an act of patriotism, in my judgment, as well as of simple honesty, to adopt a resolution along the line of that submitted by Senator MOSES, in order that the world may understand what the United States undertakes by the signature of the peace pact.

That, Mr. President, is the opinion of one of our most distinguished authorities on international law, and I give it merely as an expression of his opinion and not as mine, for there are several things in it in regard to what the Senator from Idaho has stated about the treaty with which I should venture to disagree.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER (Mr. BLAINE in the chair). Does the Senator from Connecticut yield to the Senator from Idaho?

Mr. BINGHAM. I yield.

Mr. BORAH. Let us see what the difference between Professor Borchard and myself may be. As I understand this document which the Senator read, Professor Borchard thought that the original American proposal was progressive, pure and simple, to use Mr. Kellogg's expression. As I understand Professor Borchard, if the treaty had been left just as it was proposed by Mr. Kellogg in the first instance it would have been exceedingly acceptable to Professor Borchard. He would have regarded it as a progressive, effective, desirable treaty. The only possible difference between Professor Borchard and myself must be as to the effect of the letters from the foreign countries signing the treaty. If it had not been for those letters this would be a very desirable treaty, according to Professor Borchard.

The treaty was signed precisely as it was proposed by Secretary Kellogg. Through a year's negotiation he resisted all changes in the treaty. So the sole question before the Senate,

so far as the difference between Professor Borchard and myself is concerned, is, What is the effect of those letters? Professor Borchard intimates that it would be dishonest and lacking in good faith if we should not take into consideration those letters.

Mr. BINGHAM. No. What Professor Borchard states is that we invite recrimination if we do not now specifically state the interpretation that we place upon the obligation. For that reason he states that as an act of patriotism as well as of simple honesty we should adopt a resolution in order that the world may understand what it is that the United States undertakes.

Mr. BORAH. But previous to that he said that we must take into consideration these letters, that it would be an act of bad faith to sign the treaty and not give due consideration to the letters. I have no objection at all, and I have never contended that we ought not to give consideration to those letters. But my contention is that, taking them into consideration, they do not change the treaty in any respect whatever, nor do they give the nations writing the letters any additional right, privilege, or advantage other than that which they would have under the treaty if they had never written them. So the only difference between the professor and myself is as to the effect of the letters. I do not hesitate to say again—and whatever my opinion is worth in regard to this treaty may turn upon that proposition—that these letters do not effectuate any change in the treaty whatever. Great Britain would have exactly the same right to say what constitutes self-defense as to any part of her world possessions that she had before she wrote the letter.

Mr. REED of Missouri. Does the Senator mean right or power?

Mr. BORAH. Both right and power. In other words, Mr. Kellogg had stated in his communication that the right of self-defense was one for the nation to determine for itself. That being true, Great Britain had the right to determine the question of self-defense without any further communication whatever. The general assertion is constantly made that these letters change or modify the treaty or give to Great Britain a right which she otherwise would not have, but no one ever stops to point out what the change or modification may be or what right or advantage they give. I assert the letters are stating in advance what they would have an equal right to do after signing.

Mr. BINGHAM. In connection with what the Senator just said, may I call his attention to what has already been frequently spoken of on the floor, but which it seems to me might well be spoken of again. I think it was first spoken of by the Senator from Wisconsin [Mr. BLAINE]. In a letter which the British Secretary of State for Foreign Affairs, Mr. Chamberlain, wrote to the American ambassador on May 19, 1928, in paragraph 4 it is stated that "His Majesty's Government do not think that its terms exclude action which a state may be forced to take in self-defense." If he had gone no further than that I could agree that the Senator's position might appeal to me as having force. But the fact is that some paragraphs later on, in paragraph 10, Sir Austen states:

> The language of article 1, as to the renunciation of war as an instrument of national policy, renders it desirable that I should remind your excellency that there are certain regions of the world the welfare and integrity of which constitute a special and vital interest for our peace and safety. His Majesty's Government have been at pains to make it clear in the past that interference with these regions can not be suffered.

And, in order to make it clear to all minds, he goes on to say that—

> The Government of the United States have comparable interests, any disregard of which by a foreign power they have declared that they would regard as an unfriendly act. His Majesty's Government believe, therefore, that in defining their position they are expressing the intention and meaning of the United States Government.

It seems to me, with all respect, that if the British Government had felt that there was nothing in the treaty which interfered with their right to make war for some of the regions, or in connection with some of the regions in which they have a particular interest, if they had felt that that was all covered under paragraph 4 and under article 1 of the treaty, as simply coming under the head of self-defense, it would not have been necessary for Mr. Chamberlain to have gone on and explained in paragraph 10 that there was something else besides mere self-defense, and that the very nature of the language of article 1 rendered it desirable that he call attention to the fact that there were parts of the world, not necessarily British territory, interference with which could not be suffered by His Majesty's Government.

Mr. FLETCHER. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Florida?

Mr. BINGHAM. I yield.

Mr. FLETCHER. Professor Borchard in his article seems to raise the question that emphasizes the difference between himself and the Senator from Idaho [Mr. BORAH] in this way: He says the treaty, as now qualified by the French and British reservations, constitutes no renunciation or outlawry of war; but, in fact and law, a solemn sanction for all wars mentioned in the exceptions and qualifications. That is the point that he makes with reference to the British and French notes. The Senator from Idaho, I understand, contends that there is no qualification affected by the British and French notes, that the unambiguous language of the treaty speaks for itself, and that those notes do not qualify its terms or qualifications.

Mr. BINGHAM. We have an old proverb in our language that "When the doctors disagree the patient suffers." The doctors of international law obviously disagree on what is meant by these two simple paragraphs, although to the average layman, in reading them, they can mean only one thing.

I will now venture to bring to the attention of Senators who are doing me the honor to listen to these remarks, the opinions of some of the most distinguished authorities on international law in the history of the world as to the interpretation of treaties, for after all if we are not to be accused of bad faith, if our honor is not to be called into question, if we are not to be guilty of rank hypocrisy, there ought to be a clear interpretation as to what it is we are doing when we ratify this treaty, if we do.

The oldest of well-known authorities is the distinguished jurist Grotius who, in his chapter 16, said:

> If we consider the promiser alone, he is naturally bound to fulfill his engagements. "Good faith," observes Cicero, "requires that a man should consider as well what he intends, as what he says." But as acts of the mind are not, of themselves visible, it is necessary to fix upon some determinate mark, to prevent men from breaking their engagements, by allowing them to affix their own interpretation to their words.

If it has been said once it has been said several times on the floor of the Senate that we are at liberty to interpret self-defense as we see fit, that we are at liberty to interpret the treaty so we may go to war whenever we feel so inclined.

Mr. BORAH. No; that is not a fair interpretation; not that we may go to war whenever we feel inclined but that we may go to war under such circumstances as we think constitute bona fide self-defense.

Mr. BINGHAM. What constitutes the necessity of going to war to defend ourselves? I do not think the United States has ever gone to war for any other reason than because of its belief that its territory or citizens were affected.

Mr. REED of Missouri. And every nation signing the treaty that has said anything about it has said that it had always been their policy never to go to war except in their own defense. England says it is her century-old policy. France says it, Russia says it, and Germany says it. They all say it. They have all said, and they say right in this correspondence, that they never make war except in self-defense.

Mr. BORAH. Mr. President, that may be true; it may be that for——

Mr. REED of Missouri. If it is true, and we accept it, then we have accepted all of the conditions that have made war in the past.

Mr. BORAH. Of course, the nations of the future will, as they have in the past, determine under what conditions they will go to war in defense of their rights; there is no doubt about that at all; and there is no doubt about the effect of that principle upon the treaty. But there is no way in the world to get it out of the treaty; we can not make a treaty denying to the nations of the earth the right of self-defense. Neither the Senator from Connecticut nor the Senator from Missouri nor myself nor anyone else would agree that anybody else other than we should determine what is self-defense.

Mr. BINGHAM. No, Mr. President. But here is a situation that it seems to me might conceivably arise. Supposing we should ratify this treaty and all the other nations, including Nicaragua and China, should ratify it; and supposing there should happen in China within two or three years what has happened within the past two or three years; that in that great country, with its 400,000,000 people, its magnificent distances, its warring factions, and its Provinces whose people do not understand one another's language, a situation should arise such as arose only a very few months ago, in which the lives and property of American citizens were endangered. Supposing a situation should arise such as that which arose in

Nanking in April, 1926, when an army from South China poured in through the walls of Nanking, and, acting clearly under instructions from higher authority—just how high nobody knows—proceeded to wreck every missionary's house, to burn some, to assault some of the missionaries, to kill one or two, but to spare all Chinese houses and limit their attention entirely, as an army, to foreign property and particularly American property. We had several hundred missionaries at that time in Nanking and a large amount of property, paid for by philanthropists of this country, as we had a right to have under our treaties with China. Fortunately we had a gunboat and a destroyer in the river just outside of Nanking. When word came to the commander of our warship that the lives of our citizens were in great danger and that many of the citizens had escaped to Socony Hill, which was within the walls of Nanking—and it will be remembered that the walls of Nanking are more than 30 miles long—he laid down a barrage around Socony Hill in order that the lives of American citizens there being attacked by Chinese soldiers in uniform might be saved; and they were saved. As soon as that bombardment began, whistles blew, rioting ceased, the soldiers were recalled, no more foreigners were killed, and there was prevented what might have been a terrible holocaust.

We were able to bring off our citizens on board the gunboats and save their lives without taking the lives of more than a small handful of Chinese. I think that Gen. Chiang Kai-shek, the President of China, in his official statement said he was unable to find that more than five Chinese were killed. But at that time there were a great many Chinese who had been educated in this country and there were friends of China in this country who were howling that we should withdraw our warships from China; that we should send no marines to China; that it was an act of war that we were carrying on. The Chinese Governments, both north and south, maintained that we were doing something contrary to the sovereignty of China when we sent our cruiser 700 miles up the Yangtze to Hankow, that we were affecting their sovereignty and endangering their national life when we sent our destroyers up and down the Yangtze River, as we did all that summer; and there were a great many people in this country who felt that they were right. If we sign this treaty, the Chinese can say, "You have agreed in the words of the treaty that you will settle all disputes by peaceful means; that all the future conflicts of whatever nature or whatever origin they may be which may arise shall never be settled except by pacific means."

How, then, are we going to meet the public opinion of the world when it states—and China is a signatory to the treaty—"You are doing something that is against Chinese sovereignty; you have agreed not to use any but pacific means, but you are sending your warships up the Yangtze and you are laying down a bombardment on a Chinese city without ever having entered into any arbitration, without ever having sat down about a table and resorted to mediation about it."

What are we to do, Mr. President, when that situation arises, as has happened in the past and is likely to happen in the future? Is not the force of public opinion in this country and in the world going to operate to bear so forcefully on the American Government that we will scarcely dare to do what we did a year and a half ago?

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Idaho?

Mr. BINGHAM. I yield.

Mr. BORAH. If we should do what the Senator has said we did, and what we would do again under the same circumstances, under what rule would we be acting? We would be acting under the thoroughly well-established principle of international law relating to self-defense, and for the protection of our nationals which we have announced over and over again. It would not be an act of war against China to do that; it would be purely an act in defense of our own people and under well established and universally accepted principles of international law.

Secretary Cass, in an almost identical state of facts, made this announcement as Secretary of State:

> Our naval officers have the right—it is their duty indeed—to employ the forces under their command not only in self-defense but for the protection of the persons and property of our citizens when exposed to acts of lawless outrage, and this they have done both in China and elsewhere.

Now, suppose that conditions should arise, there is no rule of which I have knowledge in international law that is so thoroughly well established as that a nation has a right to protect its citizens in a foreign land against danger, against attack, against assault; in doing so it is acting in self-defense and under international law, and that in doing so it is not committing an act of war. It is not making war and it would not in so doing violate this treaty.

Mr. BINGHAM. Mr. President, I only wish that all the lawyers in America agreed with the distinguished Senator from Idaho; I only wish that all the Senators on this floor agreed with him.

Mr. BORAH. I do not know of any lawyer who disputes that proposition.

Mr. BINGHAM. Mr. President, I read a letter from a distinguished lawyer, Mr. Colcord, in which he states that in this treaty the nations of the world pledge their sacred honor never to resort to war.

Mr. BORAH. I have just said that what was done in China was not an act of war.

Mr. BINGHAM. The Chinese thought it was.

Mr. BORAH. But the principle of international law is well established, and our Government has maintained it from its existence, and every other government of which I know has done so. If China should do the same thing, would she not claim that it was not an act of war? Suppose a Chinaman were attacked in a foreign country and the Chinese Government should undertake to protect him, does the Senator suppose that the Chinese Government would claim that it had not a right to do so, and to do so in self-defense, and that it was not carrying on war?

Mr. BINGHAM. But the point is this: What will happen if we should proceed to police the Yangtze River, as we have done for the last 50 years, to prevent mobs from assaulting and killing our missionaries and interfering with legitimate trade, and the Chinese Government should say in the future, as it has said in the past, "The presence of these gunboats in the interior of China is an offense to our sovereignty, and they must get out, and if they do not get out, as an act of self-defense we will fire on them"? They did fire on them. I have seen our ships out there with holes in them from shots fired from the shore. It is almost a miracle that more damage was not done to our warships from shots fired by Chinese soldiers. The only reason for the slight damage is that the Chinese did not have big enough cannon; chiefly they had rifles; but whenever a gunboat went up and down the river for months, whenever a destroyer appeared, there were any number of shots fired at it, and it was claimed by many distinguished Chinese that it was all done in self-defense.

When a government claims that some such act is in self-defense, are we not going to be put into a position where the opinion of the world will be against us and where public opinion in the United States will say, "If the words of this treaty mean anything, they mean that you can only use peaceful means, such as arbitration, and you have got to withdraw those warships if the Chinese Government says their presence offends its sovereignty?"

Mr. President, if I may proceed, I should like to quote a little further from Grotius:

> Where we have no other conjecture to guide us words are not to be strictly taken in their original or grammatical sense but in their common acceptation, for it is the arbitrary will of custom which directs the laws and rules of speech. It was a foolish act of perfidy therefore in the Locrians when they promised they would adhere to their engagements as long as they stood upon that soil and bore those heads upon their shoulders, in order to evade their promise to cast away the mold, which they had previously put within their shoes, and the heads of garlic, which they had laid upon their shoulders.

Mr. President, the day may be coming when the Chinese are going to say, "You accepted this treaty; words mean what they say; but apparently you had back of your mind something quite different; you had back of it the right virtually to make war, even if not technically doing so, in order to defend the lives and property of your citizens 700 miles up the Yangtze River." What are we going to say then?

Further, Grotius says:

> On the other hand, a passage may be interpreted in a more limited signification than the words themselves bear, if such interpretation be necessary, to avoid injustice or absurdity. If no such necessity exist, but equity or utility manifestly require a restriction to the literal meaning, it must be most rigidly adhered to, except where circumstances compel us to do otherwise.

Mr. President, unless the Foreign Relations Committee submit a report with this treaty stating what they believe it means, it seems to me that, to use as an illustration the same nation again, although I do not desire to be offensive, the Chinese might claim that there is nothing in the words of this treaty involving an injustice or absurdity, and that, therefore, the words ought to be adhered to in their literal meaning.

Therefore—

Goes on Grotius to say—

when anyone makes a grant or relinquishes his right—

And I take it, in view of what the Constitution of the United States says about the right of the Congress, that we have the right to declare war, and in view of the fact that it appears to some people that the first article of this treaty renounces the right to declare war—

when anyone makes a grant or relinquishes his right—

As we are apparently doing in the minds of some people here—

though he express himself in the most general terms, his words are unusually restricted to that meaning which it is probable he intended.

There, Mr. President, is another reason why it seems to me it is absolutely incumbent upon the Foreign Relations Committee to submit a report in order that the words may be restricted to that meaning which it is probable we intend. Otherwise, we are going to be accused of hypocrisy and the finger of scorn is going to be pointed against us by any nation in the world that dislikes our actions when we say we are acting in self-defense.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Idaho?

Mr. BINGHAM. I yield.

Mr. BORAH. Suppose the Foreign Relations Committee should submit a report upon the question of self-defense, what would the Senator suggest that the committee say upon that subject?

Mr. BINGHAM. That which the Senator has already prepared as a possible draft of such a report would be entirely satisfactory to me. If he will submit such a report at this moment I will stop my speech this instant.

Mr. BORAH. Mr. President, suppose I should say in the report that under this treaty each nation reserves to itself the right of self-defense and to determine for itself what facts constitute justification for the employment of self-defense; would that put an end to the controversy which the Senator is expecting between this country and China in case we should go there and do something that China did not think constituted self-defense and she should contend that it did not constitute self-defense but was an act of aggression? A report of the committee would not change that situation, because it would be in the same language exactly that Mr. Kellogg put into the treaty when he wrote his letter to the foreign governments which the foreign governments accepted.

Mr. BINGHAM. Mr. President, while it might not affect what China might say, I believe it would very seriously affect opinion in this country, because it is perfectly obvious that there are thousands and thousands of people in this country who believe that the treaty means far more than the Senator from Idaho thinks it means; and I am more interested in seeing that public opinion in the future in America is willing to stand behind this Government when it protects the lives and property of its citizens abroad than I am in what foreign opinion is going to say. Because, if public opinion in this country does not stand behind the administration in defending the lives and property of our citizens abroad then we can not do so, and our citizens might as well come home.

Mr. FLETCHER. Mr. President, may I ask the Senator if he does not think it would be utterly impossible to set out, in any treaty or any report or any note or any document whatever, all the instances of self-defense that might arise throughout the world? We might name some of them, but it would be impossible to forsee all the circumstances and conditions and instances that would be justified under self-defense.

Mr. BINGHAM. The Senator is undoubtedly correct; but the draft of a report of the committee on the treaty to which I referred a few moments ago is, in my opinion, all that is necessary to be put in to protect us, in the judgment of a court of international law or a court of international arbitration or the court of public opinion of the world, against any claims of hypocrisy or of breach of faith.

Mr. SACKETT. Mr. President, will the Senator yield?

Mr. BINGHAM. I yield.

Mr. SACKETT. Does the Senator feel that if all the nations had signed this treaty without any of these interpretations or reservations he would be willing to ratify the treaty for the United States?

Mr. BINGHAM. That is a hypothetical case, Mr. President.

Mr. SACKETT. It is hypothetical only because there may be a meaning to these interpretations.

Mr. BINGHAM. All the international lawyers with whom I am acquainted and with whom I have corresponded agree that the letters from these other powers which they thought it necessary to write are in the nature of reservations and interpretations. Certainly no one can ever accuse the British Government of hypocrisy or of breach of faith if they proceed to protect their colonies or their interests in Africa or India or anywhere else after they have signed and ratified the treaty, because they have specifically stated their interpretation in the letter of May 19.

Mr. SACKETT. What I wanted to get at was whether the Senator felt that we ought not to ratify this treaty because they have interpreted it and we have not; or whether, if they had not interpreted it in the way they have, the Senator would be willing to go ahead. We could not police the Yangtze, under the Senator's interpretation, if we ratified the treaty when there were no reservations.

Mr. BINGHAM. I think the answer to the Senator is this: The majority of the nations of the world have been unwilling to sign the treaty without letters which are in the nature of reservations. They believed that if they signed it without any reservations or explanations it would interfere with their protecting the lives and property of their citizens abroad, and it would interfere with their protecting their interests abroad.

Mr. SACKETT. Yes; and the Senator feels that we ought not to ratify it under any conditions, then, unless we interpret it so that we can protect the lives and property of our people abroad, and that, whether they made any interpretation or not, we ought to make one?

Mr. BINGHAM. Mr. President, the fact remains that they have made interpretations, and they can protect themselves against public opinion by pointing to those interpretations; and we have made no interpretations here in the Senate, except through the mouths of individual Senators; and, as has been pointed out, that is not evidence in a court of law.

Mr. SACKETT. Then the Senator feels that the interpretation on our part is a sine qua non to the ratification of the treaty?

Mr. BINGHAM. That is the way I feel about it. I think the Senator was not present when I began, when I stated that in view of the very wide difference of opinion in this country as to the meaning of the treaty it seemed to me absolutely incumbent upon us and upon the members of the Foreign Relations Committee to do one of three things: Either to adopt a reservation, or a separate resolution, or to bring in an official report of the same nature as that which is put in on every bill reported out of every committee, so that we might have an official interpretation of the treaty on record.

Mr. SACKETT. I take it the Senator would not want to sign the treaty as an original proposition without the interpretations.

Mr. BINGHAM. Not any more than the nations of Europe did.

Mr. SHORTRIDGE. Mr. President, will the Senator permit a question?

Mr. BINGHAM. Certainly.

Mr. SHORTRIDGE. I understand the Senator to take the position that practically all, if not all, of the nations that have agreed to this treaty have made certain reservations.

Mr. BINGHAM. Or interpretations.

Mr. SHORTRIDGE. Or interpretations. Does the Senator attach any importance to the interpretation of this treaty as made by our Secretary of State?

Mr. BINGHAM. Yes, Mr. President; and that is one of the difficulties. As was pointed out by my distinguished colleague, the senior Senator from Connecticut [Mr. McLEAN] the other day, the Secretary of State in his letter appeared to restrict self-defense to the defense of our territory and in no way met the invitation of Sir Austen Chamberlain in his letter of May 19, in which he said:

The Government of the United States have comparable interests any disregard of which by a foreign power they have declared that they would regard as an unfriendly act. His Majesty's Government believe, therefore, that in defining their position they are expressing the intention and meaning of the United States Government.

We did not reply to that.

Furthermore, when this matter was discussed in the Committee on Foreign Relations, as we have it in their hearings, Part I, page 8, there occurred this colloquy:

Senator MOSES. What makes me ask that is that in clause 8 of paragraph 10 of the British note—

Which I have just read—

there is certain language used which you say was employed also by us, to say that we had certain interests the defense of which we would be necessitated to take on. Was that ever stated in a note on the part of this Government?

Secretary KELLOGG. No; my explanation of what was self-defense was stated in the note on page 36.

Senator SWANSON. In the notes of Austen Chamberlain both discussing it and in the final acceptance, he said they believed it was expressing the intention of our Government to defend the regions in which we had an interest, which I believe meant certain regions, and you acquiesced in it?

Secretary KELLOGG. Of course there are certain regions——

Senator REED of Missouri. Let me say, without answering, Secretary Kellogg said he did not answer the British note, but acquiesced in it.

Secretary KELLOGG. I did not acquiesce in it at all.

Mr. SHORTRIDGE. Precisely. To what regions or to what doctrine or to what position of America does the Senator think Secretary Chamberlain referred when he made use of the language which the Senator has just read from his note?

Mr. BINGHAM. It appears to me that he referred to the Monroe doctrine.

Mr. SHORTRIDGE. Yes.

Mr. BINGHAM. And when the attention of Secretary Kellogg was called to the fact that reference had been made to that, and that the British Government had said they assumed that the United States Government would like to make similar reservations, Secretary Kellogg said, "I did not acquiesce in it at all."

Mr. SHORTRIDGE. Precisely.

Mr. BINGHAM. That is the dangerous point.

Mr. SHORTRIDGE. Therefore we may look to other declarations of the Secretary, other declarations of this country, for our interpretation of this instrument, if we may look to these various letters and correspondence issuing from other countries. Also, this question—not to interrupt more, for this is the first time I have interrupted any Senator in connection with this treaty, and it really is not my habit to do so—for perhaps future comment: Does the Senator give to a declaration of our Secretary of State any force equal to or approaching that of Secretary Chamberlain?

In a word, what are their functions? What is their power? How far may they commit the one or the other government?

Mr. BINGHAM. The Senator is too good a constitutional lawyer to expect me to instruct him on that question, for he knows as well as I do that a Secretary of State for Foreign Affairs in Great Britain holds his position only so long as he retains the confidence of the majority of the Parliament, theirs being a parliamentary form of government.

Mr. SHORTRIDGE. I understand that.

Mr. BINGHAM. And similarly with other European countries; when the Secretary of State for Foreign Affairs speaks, he speaks not only for the executive but for the legislative branch. With us it is different. Under our Constitution, treaties are to be made by the Executive and ratified by the Senate. And therefore the opinion of the Senate, as shown in a report from the Committee on Foreign Relations, as to the meaning of a treaty, is precisely as important as any letter from the Secretary of State; and without it the opinion of the Secretary of State has only half the importance which the expressed opinion of Sir Austen Chamberlain or of the French Foreign Minister might have.

Mr. SHORTRIDGE. If we are aware of the utterances, the official statements of our Secretary of State, and, it may be, of the President of the United States, and then concur in and approve a treaty negotiated and approved by the President, do we not carry into our ratification or approval a full approval of all that either or both of those officers, the President or the Secretary of State, have said?

Mr. BINGHAM. That might be so held very properly, I may say to the Senator; but, in view of the fact that it would appear from the correspondence that the Secretary of State specifically declined to make any implication that the Monroe doctrine was included in our mental reservations, we ought to be particularly careful to have an interpretation on record here. I do not say that it is necessary that we vote for reservations. I do not say that it is necessary that we pass the Moses resolution, or even the first paragraph of it. But if we do not do that, then we certainly ought to have here on file a report from the committee stating just what the committee thinks the treaty means and why the committee reported it favorably. The very fact that the committee is disinclined to do it leads me to feel that the treaty ought not to be ratified, because there is something there somewhere, some mental reservation, that must go without being said; there is somebody somewhere who thinks the treaty means what it does not mean; and, if I may quote again from Grotius—

From what has been said, an inference may be drawn in favor of sworn treaties or agreements that they ought to be taken in the most usual acceptation of the words, rejecting all implied limitations and exceptions and such as are not immediately necessary to the subject.

If we reject all implied limitations and exceptions to this treaty, then it is a very dangerous document; but, as I said before, there are a great many Senators who believe that it is a harmless document because it means very little.

Mr. SHORTRIDGE. If the Senator will permit me, I think it means a vast deal. I did not have the benefit of listening to all the Senator has said; I have just come into the Chamber; but may I ask him, if he has not already covered the subject, how far may we or any party signatory to this treaty depart from, go outside of, the four corners of the instrument?

If the Senator grasps the force of that question, I should be very glad to be advised as to his position.

Mr. BINGHAM. Mr. President, the Senator has stated that he was not here when I began; and the reason why I am appealing in this way to the Foreign Relations Committee to make a report is that the four corners of the instrument to which the Senator refers are, in the minds of some people in America, very narrow and restricted, and in the minds of others they are as far apart as the poles. It is because great international lawyers differ absolutely on the meaning of the treaty, with or without such a declaration as would occur in the report of the committee. It is because publicists differ. Some think it very dangerous for us to sign it; others think there is no danger at all in it. The friends of peace who were here in Washington within the last few days opposing the cruisers all believe that if the treaty is ratified they can then bring pressure to bear upon us that there shall be no more cruisers, because we have promised to use none except pacific means.

Mr. SHORTRIDGE. Well, of course, they are all wrong on that proposition.

Mr. BINGHAM. I hope so.

Mr. SHORTRIDGE. Utterly wrong.

Mr. BINGHAM. If they are wrong, then why is there any objection to the Senate saying so, either in a resolution or by a report of the Foreign Relations Committee?

Mr. SHORTRIDGE. As for me—and I will undertake to make myself understood hereafter—this agreement is plain, simple, and unambiguous. I think the criticisms aimed at it are hypercritical, the defects are imaginary, the fears expressed are groundless. What we say is in our tongue, plain English, so that even a Senator should not err therein—that we renounce war as an instrument of national policy. I would attach some importance to those words, "as an instrument of national policy." We say that we condemn recourse to it as an instrument of national policy. We are not, may I say in anticipation, denouncing a righteous, revolutionary war.

Mr. BINGHAM. Will the Senator permit me to proceed?

Mr. SHORTRIDGE. Will the Senator indulge me for a moment? I am going to stand upon this treaty. I think it plain, notwithstanding the publicists, notwithstanding the versatile newspaper writers, notwithstanding, perhaps, and I say it with respect, hastily formed opinions.

Mr. BINGHAM. Mr. President, I am glad the Senator feels so sure that this treaty is, in plain words, entirely satisfactory, for I know he is an ardent advocate of the national defense and would do nothing which would interfere with our having as many cruisers as we needed for the national defense and for protecting American lives and property abroad. But I would call his attention to the fact that the plain words of the treaty say that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be that may arise shall never be sought except by pacific means.

Mr. SHORTRIDGE. Precisely.

Mr. BINGHAM. And if that means what it says, without reservation or explanation, it is contrary to the Senator's own theory.

Mr. SHORTRIDGE. We shall seek it by what? By pacific means, by arbitration, by conciliation, by going on our knees to avoid war; but if other nations will not meet us in the same spirit, then we may have recourse to power to redress a wrong or to defend ourselves.

Mr. BINGHAM. Let me ask the Senator a question. Suppose he were trying to draft a clause that would prevent us from using any but pacific means; how would he draft it in any other way than this?

Mr. SHORTRIDGE. I would not undertake to do so, because I think this perfect.

Mr. FESS. Mr. President, will the Senator yield to a question?

Mr. BINGHAM. I yield.

Mr. FESS. Is the Senate to understand that the Senator's exception to the use of any but pacific means means that he thinks we would have to resort to warlike means—that is, that there are only two alternatives, either pacific or warlike means?

I am interested in the observations the Senator made on China. The Senator seemed to intimate that if this treaty had been in existence we would not have been free to do what we did at that time; that it might have been regarded as war. China claimed it was war. It is not the Senator's position that that was war, is it?

Mr. BINGHAM. Oh, no, Mr. President; I do not hold that position. What I was going to point out was the fact that in the exercise of our right of self-defense in the past it was frequently necessary for us to do things which the nations to which we did them said were acts of war, but they were not strong enough to speak out in terms of cannons and gunboats.

Mr. FESS. On the 21st day of April last year the Senator, standing just where he is now standing, gave a recital of the many cases in which we protected our citizens, starting from the beginning and going up to that time, including our difficulties in Central America, in the West Indies, and in the Orient. I thought that was one of the best presentations and most valuable documents we had received here from the standpoint of the history of our relationships in that respect. In every case the Senator insisted that we were not going to such an extent that it could be justly claimed that we were committing an act of war; and I agreed with him. What has changed the Senator's opinion from that day to this?

Mr. BINGHAM. Mr. President, my opinion has not changed, and I am sorry if I give that impression. I do not think the Senator was present when I began my remarks to-day. I am not arguing against the treaty. I am not arguing for the treaty. I am beseeching, with all the force and power that I have, that the Foreign Relations Committee present to the Senate a report as to what they believe the treaty means. That is all I am asking for. Every time any committee reports an important measure to the Senate it presents a written report as to what the measure means. The Foreign Relations Committee have not done so in this case. There are thousands of good American citizens who do not agree with the Senator or with me that if we ratify this treaty we can then protect American lives and property as we have done in the past by using our gunboats and marines, without going to war, without using force, just as we did in the Boxer rebellion, when we sent our battalions and our warships to Tientsin, and then marched overland to Peking.

So far as the Chinese were concerned we were making war on China. Technically, from our point of view, we were not making war, even though we were carrying on a bloody military campaign.

The Senator will remember there were certain Senators last year, or year before last, in the discussion of the Nicaraguan episode on the floor of this Chamber, who continually referred to the fact that in their minds we were making war on Nicaragua. I think the Senator from Nebraska took that position and referred to the "war in Nicaragua." He is present, and I will ask him whether that is not the fact?

Mr. NORRIS. Mr. President, like the Senator from Connecticut I have not changed my mind. I still think so.

Mr. BINGHAM. Exactly. That, Mr. President, is the reason why I want an interpretation here, because there are Senators as honest and distinguished and patriotic as the Senator from Nebraska, who believes that you can not do the things the Senator from Ohio and I think should be done without declaring war. Therefore if we shall ratify this treaty, when we do those things we will be told that we are going contrary to our pledged word.

Mr. NORRIS. Mr. President, since the Senator has himself brought me into this discussion, I would like to ask him now what difference it makes whether we have a report from the committee or do not have a report, as far as anything we did in the past in regard to Nicaragua is concerned? And also, would the ratifying of this treaty——

Mr. BINGHAM. May I answer one question at a time?

Mr. NORRIS. I will wait until the Senator has answered that question.

Mr. BINGHAM. It would have no effect on anything we did in the past.

Mr. NORRIS. From the Senator's viewpoint, not mine, of what we did in Nicaragua, if this treaty had been in effect, would we have been restrained from doing anything we did do without the treaty?

Mr. BINGHAM. Mr. President, I am not trying to give to-day my opinion as to what the treaty means. I am trying to state that there are two widely different schools of interpretation of the treaty.

Mr. NORRIS. I appreciate that.

Mr. BINGHAM. And because the interpretations of it among honest men are so widely different, I believe we should have an official interpretation in our records in the shape of a report of the committee.

Mr. NORRIS. The Senator has not answered my question. I wish he would do so.

Mr. BINGHAM. I do not care to give my opinion of the treaty at this time. I am pleading for something else. I am not arguing for the treaty or against it. I do not care to get involved in that dispute.

Mr. NORRIS. As I understand it, the ratification of the treaty, from my viewpoint of what happened in Nicaragua, would not change our right one particle. We would have the same right. If we were there of right, under the claim the Senator thinks was sufficient, we would still have it. The Senator is now only pleading for an opinion of the Committee on Foreign Relations. He wants it filed here. Does not the Senator know that there would be just the same opportunity to disagree with the conclusions of the committee as there is to disagree with the treaty itself? Would there not be just as much dispute about what the committee meant as there is about what this treaty means? We can not do anything that will prevent men from disagreeing, and honestly so, as to what certain words mean, and if there is a disagreement as to what the treaty means now, there would be a disagreement as to what the Foreign Relations Committee meant if they undertook to rewrite the treaty. As I look at it, it would be only jumping out of the frying pan into the fire.

Mr. BINGHAM. Mr. President, it is a little disconcerting to have Senators who have only heard a small part of the presentation ask questions and make implications. I will say to the Senator from Nebraska that it was brought out several days ago—I do not think he was present at the time—and it has been since called to my attention personally by the Senator from Idaho that the Supreme Court has held that while the statement of a Senator or of a Representative on the floor of either House can not be used in interpreting a law in the courts and is not authoritative as to the meaning of the law, a report of a committee formally made and filed before the action of the Senate or the House on the law is evidence in the courts as to what the law means, if there is any doubt about it.

I should like to go on now.

Mr. NORRIS. The Senator will permit me to interrupt further, will he not, because he has not entirely stated my position?

I heard what the Senator from Idaho said, and I am not disagreeing with what he said; I have always held that opinion. But we still are up against the proposition that whatever we do is going to be construed by men in the future, and that is true of the Foreign Relations Committee, and it is true of the Supreme Court itself.

As I understand it, we would not simplify the treaty by the method the Senator has proposed; but that is only my judgment. To my mind, it needs no construction by the Foreign Relations Committee. If I am wrong about that, and a majority of the Senate thinks I am wrong, and a proper reservation is offered and voted on, we will get the sentiment of the majority of the Senate, and by that I will abide. We would not want to vote for the adoption of a construction of a treaty that we thought was already plain and give two opportunities for misconstruction and misinterpretation afterwards instead of one.

Mr. BINGHAM. Very well. I am glad the Senator has made himself so very plain.

Mr. FESS. The Senator, then, has not changed his opinion from that expressed in his speech of April 21, 1928?

Mr. BINGHAM. Not at all, I will say to the Senator.

Mr. FESS. His only concern is that a certain portion of the public might think that we are wrong when we say it is not an act of war?

Mr. BINGHAM. I think the Senator from Ohio was not present when I read the recent letter from Professor Borchard.

Mr. FESS. I heard most of it.

Mr. BINGHAM. In which he said that if we do not now specifically state the interpretation that we place upon the obligations subscribed to we will invite bitter recriminations, and that it is an act of—

simple honesty to adopt a resolution along the line of that submitted by Senator MOSES, in order that the world may understand what the United States undertakes by the signature of the peace pact.

I understand, and I think it is an open secret, that the administration is extremely anxious that there should be no vote of the kind mentioned by the Senator from Nebraska. A large number of Senators who are loyal to the administration, and who hold a slightly different opinion of this from what I do, although possibly agreeing with me in regard to its general

aspects, would vote against any such resolution, because the Secretary of State is so very strongly opposed to a vote in favor of a reservation, or a vote on a matter of explanation.

For that reason I am not pressing for the adoption of a resolution because I know that a great many Senators in favor of it would have to vote against it, because they have promised to vote against it, and they do not want to go against their promise, or because they feel that the administration is so anxious that they should vote against it. At the same time there is nothing to prevent the Foreign Relations Committee from making a report, a draft of which has already been drawn up by the chairman of the committee. That would obviate the danger of any official claim of any foreign country in the future that we were misinterpreting the treaty, that we were reading something into it that was not there, and that we were not acting in good faith.

Mr. FESS. The Senator does not think a resolution that might be adopted by the Foreign Relations Committee would have very much effect in alleviating that fear of those who claim that it is an act of war, does he?

Mr. BINGHAM. The report which has been prepared is of a nature which would do away with most of the important misunderstandings. It would do away with any claim on the part of certain nations that there was something implied in the treaty which they did not know was implied. The very fact that certain nations do not want us to make any reservations is to my mind a good reason why, in all honesty, we ought to make a reservation of whatever sort seems best to the Senate.

Mr. SHORTRIDGE. Mr. President, will the Senator permit a question?

Mr. BINGHAM. Certainly.

Mr. SHORTRIDGE. What was the date of the letter or statement of Professor Borchard from which he just read?

Mr. BINGHAM. January 7, 1929.

Mr. SHORTRIDGE. Does the Senator think he had then heard the masterly defense and explanation of the treaty made by the chairman of the Foreign Relations Committee when he uttered that statement and made those puerile remarks?

Mr. BINGHAM. My impression is that he had read it, but I object to any such observations about any of my constituents. They do not make "puerile remarks."

Mr. SHORTRIDGE. I read what purported to be an article or an argument of this same learned Connecticut professor.

Mr. BINGHAM. That is better.

Mr. KING. Mr. President, will the Senator permit an inquiry?

The PRESIDING OFFICER (Mr. HASTINGS in the chair). Does the Senator from Connecticut yield to the Senator from Utah?

Mr. BINGHAM. I yield.

Mr. KING. It seems to me, if I understand the Senator's position, it would be rather hypocritical, if there is such ambiguity in the instrument, after supplementary interpretation for us to be content with a mere declaration of what the language means by the Committee on Foreign Relations. Notwithstanding my high regard for the Committee on Foreign Relations, their interpretation is no better than the interpretation of other Senators. I want to know for myself just exactly the interpretation which ought to be placed upon the language. If the Senator's position is correct that the treaty is subject to different interpretations and that our rights under the treaty are difficult to determine, are susceptible of different interpretations, I think it is our duty not to be content with a declaration of what the Committee on Foreign Relations says, because that would not bind the Senator from Connecticut; it would not bind me or anybody else; but there ought to be a formal reservation or amendment to the treaty.

Mr. BINGHAM. Although it might not bind anyone it would be evidence accepted in a court of law, in a doubtful case, as to the meaning of the treaty. Now, if I may be allowed to proceed for a little time with what I have prepared, I shall be very grateful to my friends.

Mr. NORRIS. Mr. President, I shall not interrupt the Senator without his consent, but I would like to ask a question on that very point.

The PRESIDING OFFICER. Does the Senator from Connecticut yield to the Senator from Nebraska?

Mr. BINGHAM. The Senator knows——

Mr. NORRIS. I do not want to be discourteous to the Senator. If he implies that I ought not to ask a question, I shall not ask it, of course.

Mr. BINGHAM. I asked the privilege of going on for a while, but as the Senator is on his feet I yield to him.

Mr. NORRIS. I want to ask the Senator this question: Assuming, of course, as I do, that he is perfectly sincere in trying to get the opinion of the Foreign Relations Committee as a sort of reservation or interpretation, and admitting all that he said about it for the sake of argument, would it not be a great deal better to have the judgment of the Senate itself than of the Foreign Relations Committee?

Mr. BINGHAM. Undoubtedly.

Mr. NORRIS. If the Senator is right—and I concede he has a perfect right to ask an interpretation—why not have it in the way of a reservation that will get the opinion of the Senate instead of one of its committees?

Mr. BINGHAM. I have tried to tell the Senator it is because I believe——

Mr. NORRIS. The only reason the Senator has given is that some Senators have promised somebody—I suppose the Secretary of State or the President—that they will not vote for a reservation. If Senators are convinced that a reservation is necessary to properly interpret the treaty, it seems to me they are violating their duty to their country and as Senators if they refuse to vote for it. Personally I do not believe in it, but if I did I would insist on voting for it and getting the opinion of the Senate on it. I would be glad to accept the judgment of the Senate if it is against my judgment. I hate to have the treaty go out with a statement made by the Senator that a large number of Senators think there ought to be some interpretation made here, but for one reason or another they are afraid to vote for it.

Mr. BINGHAM. Does the Senator doubt that condition of affairs?

Mr. NORRIS. I never thought of it before. It never occurred to me before that such a condition existed here. But if it is true I would like to know the names of the Senators who have pledged themselves not to vote for a reservation when down in their official hearts they think there ought to be one.

Mr. BINGHAM. So far as I know there are no documents, forged or otherwise, giving any names in this matter. But nobody doubts that that is the fact.

Mr. President, if I may go on without interruption for a few moments, I desire to quote from Chitty's edition of Vattel's Law of Nations. It will be generally recognized by Senators that Vattel is one of the highest authorities on international law. On page 244, chapter 17, in discussing the interpretation of treaties, which is a subject to which he gives a great deal of attention, perhaps more than any other writer on international law, he said:

> The first general maxim of interpretation is, that it is not allowable to interpret what has no need of interpretation. When a deed is worded in clear and precise terms—when its meaning is evident, and leads to no absurd conclusion—there can be no reason for refusing to admit the meaning which such deed naturally presents.

The position maintained by the distinguished lawyer from New York, Mr. Colcord, and others who believe the treaty is plain and explicit, is that no one could possibly vote hundreds of millions of dollars for an army and navy after having signed the treaty.

Vattel proceeds:

> To go elsewhere in search of conjectures, in order to restrict or extend it, is but an attempt to elude it. If this dangerous method be once admitted, there will be no deed which it will not render useless.

It has been stated on the floor of the Senate that in the opinion of some Senators there is no war which may not be considered a war of self-defense. Certainly, so far as my recollection serves me, there were no nations in Europe in the last and greatest of all wars that did not maintain that they went to war purely to defend themselves and their interests.

Vattel says:

> However luminous each clause may be, however clear and precise the terms in which the deed is couched, all this will be of no avail if it be allowed to go in quest of extraneous arguments to prove that it is not to be understood in the sense which it naturally presents.

When these good friends who oppose the cruiser bill read that maxim of interpretation it seems to me they will have a fair and reasonable position on which to base their opposition to the cruisers.

> Those cavilers who dispute the sense of a clear and determinate article are accustomed to seek their frivolous subterfuges in the pretended intentions and views which they attribute to its author. It would be very often dangerous to enter with them into the discussion of those supposed views that are not pointed out in the piece itself. The following rule is better calculated to foil such cavilers and will at once cut short all chicanery: "If he who could and ought to have explained himself clearly and fully has not done it, it is the worst for him."

I assume it is possible that there will be people who will cavil at this treaty in the years to come. If we who ought to

have explained ourselves clearly and fully in this matter, by resolution or otherwise or by report of the committee, do not do it, it is the worst for us.

Vattel goes on to say:

He can not be allowed to introduce subsequent restrictions which he has not expressed. * * * The equity of this rule is glaringly obvious, and its necessity is not less evident. There will be no security in conventions, no stability in grants or concessions, if they may be rendered nugatory by subsequent limitations, which ought to have been originally specified in the deed, if they were in the contemplation of the contracting parties.

It is obvious that our European friends had that in mind when they wrote those letters in which they specifically stated what they understood the treaty to mean when they signed it.

Vattel goes on to say:

The third general maxim or principle on the subject of interpretation is that neither the one nor the other of the parties interested in the contract has a right to interpret the deed or treaty according to his own fancy.

That would seem to give those people who are greatly in favor of the treaty and opposed to the cruisers the right to say that we have no right to interpret the treaty according to our own fancy and virtually to go to war, as they believe we do when we send marines to Nicaragua and China as we have done in the past.

For if you are at liberty to affix whatever meaning you please to my promise, you will have the power of obliging me to do whatever you choose, contrary to my intention, and beyond my real engagements; and, on the other hand, if I am allowed to explain my promises as I please, I may render them vain and illusory by giving them a meaning quite different from that which they presented to you, and in which you must have understood them at the time of your accepting them.

Vattel then goes on to say:

On every occasion when a person could and ought to have made known his intention, we assume for true against him what he has sufficiently declared. This is an incontestable principle, applied to treaties: For, if they are not a vain play of words, the contracting parties ought to express themselves in them with truth, and according to their real intentions. If the intention which is sufficiently declared were not to be taken of course as the true intention of him who speaks and enters into engagements, it would be perfectly useless to form contracts or treaties.

It seems to me that if we were to use that maxim of interpretation in regard to article 2, it would have to read somewhat as follows:

The high contracting parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, which may arise among them, shall never be sought except by pacific means, except when we believe that our self-preservation is in danger, except when we believe that we are pledged to exercise the right of self-defense, and except when our citizens, their lives and property, are endangered in foreign lands, and except when the Monroe doctrine is threatened.

If we did that then we would safely come under this rule of Vattel where he said that on every occasion when a person could and ought to have made known his intentions, we assume for true against him what he has certainly declared. But we do not do it in the treaty. The treaty has been signed, but it is only half effective, for it has not been ratified. If we do not do this before we ratify it seems to me a perfectly valid ground for contention on the part of Mr. Colcord and others that they may assume for true against us that we will not use any but pacific means, under any consideration whatsoever.

Vattel goes on to say:

As these rules are founded on right reason, and are consequently approved and prescribed by the law of nature, every man, every sovereign, is obliged to admit and to follow them. Unless certain rules be admitted for determining the sense in which the expressions are to be taken, treaties will be only empty words; nothing can be agreed upon with security, and it will be almost ridiculous to place any dependence on the effect of conventions.

But, as sovereigns acknowledge no common judge, no superior that can oblige them to adopt an interpretation founded on just rules, the faith of treaties constitutes in this respect all the security of the contracting powers. That faith is no less violated by a refusal to admit an evidently fair interpretation than by an open infraction. It is the same injustice, the same want of good faith; nor is its turpitude rendered less odious by being choked up in the subtilities of fraud.

Let us now enter into the particular rules on which the interpretation ought to be formed, in order to be just and fair. Since the sole object of the lawful interpretation of a deed ought to be the discovery of the thoughts of the author or authors of that deed, whenever we meet with any obscurity in it, we are to consider what probably were the ideas of those who drew up the deed, and to interpret it accordingly.

So long as the Foreign Relations Committee makes no report, so long as we are permitted to pass no resolution of interpretation, how are our friends in this country or abroad or our enemies to interpret the ideas of those who ratify the treaty? Every Senator has his own views of what the treaty means. None of those views is valid in a court of law.

Mr. President, there is one more quotation from Vattel which seems to me to be very important. On page 252 he says:

It is not to be presumed that sensible persons in treating together, or transacting any other serious business, meant that the result of their proceedings should prove a mere nullity.

There are a number of Senators on this floor who think that the treaty is practically a mere nullity, but, since they have been asked to vote for it, they are going to vote for it.

Vattel goes on to say:

The interpretation, therefore, which would render a treaty null and inefficient can not be admitted.

Mr. President, there are a great many people in the world who will hold that an interpretation of the treaty which would permit us to send marines or a cruiser into any port of the world or into the interior of China, if we should think the lives and property of our citizens were affected, would render the treaty null and inefficient. I do not think there is any doubt about that. Does anyone doubt that? I do not hear anyone object to that.

Mr. SHORTRIDGE. Mr. President, I doubt it; that is to say, I claim it would not be violative of the treaty.

Mr. BINGHAM. I did not say that it would be violative of the treaty. What I tried to state was that there were a great many people in the world who would hold that such an act on our part would render the treaty null and inefficient. I did not say that the Senator from California would think so.

Mr. SHORTRIDGE. No; but it would not have any effect upon the treaty at all, in my judgment.

Mr. BINGHAM. I know the Senator believes in the national defense, and consequently it would not have any effect in his judgment; but he is at one extreme of the interpretationists, and there are just as many people, if not so distinguished ones, at the other extreme.

Mr. SHORTRIDGE. Where are they?

Mr. BINGHAM. A good many of them were in the gallery the other day, I will say to the Senator.

Mr. SHORTRIDGE. They are in foreign countries. If so, that does not concern us.

Mr. BINGHAM. I have never before heard the gallery referred to as a foreign country.

Mr. SHORTRIDGE. I do not know whether or not any distinguished representatives of foreign countries are in the gallery, but if so, they are quite welcome.

Mr. BINGHAM. The Senator knows that there are very distinguished Americans who hold that we can not possibly do as the Senator proposes to do, namely, vote for the treaty and for the cruiser bill without being hopelessly and wickedly inconsistent.

Mr. SHORTRIDGE. But I shall be entirely consistent. We propose to enter into this treaty; we propose to keep it absolutely; but if other nations shall break it, I trust this Nation will be able to defend itself and every one of its men, women, and children wherever they may be on God's earth.

Mr. BINGHAM. The Senator knows that I heartily agree with him.

Mr. REED of Missouri. Mr. President, may I ask the Senator from California a question merely to get his views?

Mr. BINGHAM. I yield to the Senator from Missouri for that purpose.

Mr. REED of Missouri. Does the Senator from California think that this treaty in any way qualifies or limits our policies as we have heretofore been pursuing them?

Mr. SHORTRIDGE. I do not, I will say to the Senator from Missouri; and that is the only verbal criticism I would make of the language of the treaty. We are here renouncing war as an instrument of national policy. We have never resorted to or made use of war as an instrument of national policy.

Mr. REED of Missouri. I agree with the Senator.

Mr. SHORTRIDGE. This Nation is smitten with a love of peace; we wish no war, and I trust we never shall have war. I want to enter into this treaty committing ourselves anew, if you please, to this doctrine of mine and of the Senator from Missouri; and if any nation shall violate it, I wish to be in a position to defend America. I think that if we are in such position it will have a very deterring influence upon other nations if they are disposed to violate it.

Mr. REED of Missouri. And then the Senator thinks we ought to spend some millions of dollars to help put ourselves in that position?

Mr. SHORTRIDGE. I think so, if we are not now in such a position; and I fear we are not.

Mr. REED of Missouri. This treaty, then, does not change our national policy one particle; it will remain the same after the treaty shall have been ratified as before. That is the Senator's position?

Mr. SHORTRIDGE. I will repeat my statement, if the Senator will allow me.

Mr. REED of Missouri. Then all we have done is to reaffirm a policy that we have always maintained.

Mr. SHORTRIDGE. It may well be so, so far as we are concerned; but, in a sense, we took the large initiative and we are seeking to have all the civilized nations of the earth adopt the same policy.

Mr. REED of Missouri. Our policy always has been that we had a right to defend our national interests; that it was our duty so to do; and that policy is not changed? The Senator nods his head, and I take it he concurs.

Mr. SHORTRIDGE. Yes; I claim that our record is absolutely clear.

Mr. REED of Missouri. And the right that we have to defend our territory and our interests equally obtains for every other nation?

Mr. SHORTRIDGE. I did not quite catch the Senator's observation.

Mr. REED of Missouri. I say it equally obtains for every other nation; they all have similar rights.

Mr. SHORTRIDGE. Yes.

Mr. REED of Missouri. So that all that we are doing is to say that we are renouncing war as an instrument of national policy and that we will keep the peace. Well, we never did use war as an international policy; and does the Senator know of any civilized nation which will admit that during the last hundred years it has employed war as an instrument of national policy except to defend itself?

Mr. SHORTRIDGE. I do not; but I know of many that I think have used war as a national policy.

Mr. REED of Missouri. And some of them will say that of us.

Mr. SHORTRIDGE. I grant that they may.

Mr. REED of Missouri. When, therefore, we say to a nation that has always maintained "We do not employ war as an instrument of national policy," "Please say it over again," we have not made much of an advance, have we? That nation is just where it was before.

Mr. SHORTRIDGE. Here is a thought which I think is responsive to the one just expressed: Most treaties of peace have been entered into as between two nations, while here is a proposed treaty entered into by and between and among all the nations of the world.

Mr. REED of Missouri. Does the Senator think that adds to the obligation?

Mr. SHORTRIDGE. I certainly do, sir.

Mr. REED of Missouri. Very well; that is to say, there exists to-day between the United States and every civilized nation a treaty of perpetual amity and peace; similar treaties exist substantially between all other nations; in the aggregate the existing treaties are pledges of amity and peace and pledges in many instances to settle all controversies by peaceful means. That is the existing state of affairs. Now, the Senator thinks that by putting that all in one document, and by signing it, in some way it strengthens the articles of peace. I take it that is the Senator's view?

Mr. SHORTRIDGE. Yes; I entertain that view.

Mr. REED of Missouri. Does the Senator think that there springs from that any mutual obligation, since it is a mutual contract, to defend or sustain the contract?

Mr. SHORTRIDGE. Well, first, I think, to repeat myself——

Mr. REED of Missouri. I want really to get the Senator's view.

Mr. SHORTRIDGE. Precisely; but I am trespassing and intruding upon the time of our friend the Senator from Connecticut [Mr. BINGHAM]. However, I feel sure he will suffer a prolongation of the interruption.

Mr. REED of Missouri. I have great respect for the views of the Senator from California, and I know if he and I differ on this question that any two nations in the world when their interests are concerned are likely to differ.

Mr. SHORTRIDGE. I have not differed from the distinguished Senator on many great questions.

Mr. REED of Missouri. And the Senator has generally been right.

Mr. SHORTRIDGE. I was far away and my views were of little moment. But, first, I do think, even though there exist to-day many treaties of peace, that this proposed treaty, entered into by the great powers and small, the strong and the weak, the European, the American, the Asiatic, all nations in different degree of—shall I say civilization, but with respect for them all—a treaty entered into by them all as of this year committing themselves or recommitting themselves to renounce war as an instrument of national policy will have a most beneficial influence and effect upon all concerned.

Mr. REED of Missouri. Passing to the next question, if the Senator please, does there spring from this multilateral agreement any multilateral obligation to sustain the treaty either expressed or implied?

Mr. SHORTRIDGE. No; if I grasp the import of the question. I have thought of that. I have read with care the remarks attributed to the Senator from Missouri when he was discussing that question, referring, namely, to whether if this treaty should be broken by one of the signatory powers there would be any legal obligation or moral obligation on the part of the others to go to the defense of the assailed or the innocent party; in other words, to become the associate or the ally of the treaty-observing members. With great respect for the views of the Senator, I do not think there is any moral or legal obligation carried in this treaty to become the ally or the associate——

Mr. REED of Missouri. That is to say, if 50 nations sign this treaty, the object being to maintain the peace of the world, and one of them wrongfully assails another, we are to let that nation stand out and take the brunt of the whole matter, it alone to suffer, and the rest of us to be at perfect liberty to deal with the offending nation exactly as with the injured nation?

Mr. SHORTRIDGE. I answer as I have, and for this reason: The Senator has asked me whether there was any moral or legal obligation springing out of this agreement or this proposed treaty in event that it be broken, and I have answered as appears. If the treaty be broken every member of the treaty is released eo instanti from any and all its obligations. That does not mean that we then, freed from this treaty, might deem it proper to become the ally or associate of the nation that had been attacked.

Mr. REED of Missouri. I understand; but that is not the question.

Fifty nations sign the treaty. One of them violates the treaty by attacking another. By the violation of the treaty as to that one it has violated the treaty as to all of us, and we are released from any obligations to the offending nation, if we can determine which one it is. The question I am asking, then, is, being released from obligations to the offending nation, are we under any kind of express or implied obligation to assist the injured nation?

Mr. SHORTRIDGE. Not by the terms of this proposed treaty.

Mr. REED of Missouri. No; not by its terms; but is there any implication there?

Mr. SHORTRIDGE. I answer neither explicitly nor impliedly is there any such suggested legal or moral obligation under or by this treaty.

Mr. REED of Missouri. Are we, then, at liberty to send our goods, our supplies, to the offending nation just the same as we would be if we never had ratified this treaty?

Mr. SHORTRIDGE. I would answer, yes; whatever the law may be upon that subject.

Mr. REED of Missouri. We are at liberty to do it?

Mr. SHORTRIDGE. Whatever the law may be, it would be unaffected by this treaty.

Mr. REED of Missouri. Then we get the treaty down to this point:

Every nation, now, has a pact of peace with every other nation. If we ratify this treaty, and a nation breaks it, no matter how grossly, we are under no obligation to stand by or assist in any way the nation that is injured. We are at perfect liberty to open our ports and our commerce to the wicked and offending nation just the same as though we had never made this pact of peace.

If that is true, then this is a sounding brass and a tinkling cymbal.

Mr. SHORTRIDGE. On the contrary, I think it is a high and holy declaration which will have a most wholesome influence upon all the nations of the earth.

Mr. BINGHAM. Mr. President, if I may resume——

Mr. REED of Missouri. I apologize to the Senator.

Mr. SHORTRIDGE. On behalf of the Senator from Missouri, I apologize.

Mr. BINGHAM. The apology is not only accepted but the interruption was extremely welcome.

As the concluding words of the two Senators who have just spoken, and for whom I have a high regard, show the truth of the contention I have been making this afternoon, I should like to repeat them, in that one said that this treaty was a sounding brass and a tinkling cymbal, and the other said it was a high and holy declaration, a pious aspiration, and so on, and so on.

Mr. SHORTRIDGE. I did not put it just that way.

Mr. BINGHAM. Will the Senator kindly put it as he would like to have it appear?

Mr. SHORTRIDGE. No; our words, yours and mine, will be as set down.

Mr. BINGHAM. The point is that the interpretations of these few words in these two clauses are, as I have said before, as wide apart as the poles; and therefore there is really an obligation—a moral, if not a legal, obligation—on the Committee on Foreign Relations to tell us in so many words, by a written report, just what they think the treaty means when they report it to us with their recommendation that it pass.

Mr. BLAINE. Mr. President——

Mr. BINGHAM. I yield to the Senator from Wisconsin.

Mr. BLAINE. It may not be apropos at this time, but it is near enough to the occasion to suggest to the Senator from California that about the only conclusion a temperate mind may come to in this situation is that this treaty is a pious pronouncement of pure piffle.

Mr. BINGHAM. Mr. President, I desire to conclude as rapidly as possible by quoting from two or three other authorities on international law with regard to the interpretation of treaties.

A very distinguished authority, Mr. William Edward Hall, whose treatise on international law is familiar to all students of international law, says, in part 2, chapter 10:

> When the language of a treaty, taken in the ordinary meaning of the words, yields a plain and reasonable sense, it must be taken as intended to be read in that sense, subject to the qualifications that any words which may have a customary meaning in treaties differing from their common signification must be understood to have that meaning, and that a sense can not be adopted which leads to an absurdity, or to incompatability of the contract with an accepted fundamental principle of law.

Mr. President, it is quite obvious from what the Senator from Idaho [Mr. BORAH] said a few days ago that he holds that the language of the treaty can not be taken in the ordinary meaning of the words, in which they yield a plain and reasonable sense, because a sense can not be adopted which leads to an absurdity, and the Senator holds that any interpretation of the treaty leading to an interference with the right of self-defense is an absurdity, and I assume that the Senator from California will agree with him in that regard.

Mr. SHORTRIDGE. Mr. President, will the Senator permit me, before he proceeds, to ask whether our Supreme Court, in authoritative cases, has not laid down the rule by which treaties are to be interpreted?

Mr. BINGHAM. I hope, when the Senator presents his speech on the treaty, he will refer to those cases in which the Supreme Court has laid down those rules, because I am extremely anxious to have them presented to the Senate.

Mr. SHORTRIDGE. I do not wish to encumber the RECORD, but the same rules apply in the interpretation of a written treaty that apply in the interpretation of any written agreement.

Mr. BINGHAM. Exactly, Mr. President.

Mr. SHORTRIDGE. That is the law.

Mr. BINGHAM. And since the Supreme Court has said that the report of a congressional committee to either House is acceptable in the courts, therefore I claim that the least the Committee on Foreign Relations can do to help us settle these tremendous divergences of opinion is to make such a report.

Mr. ROBINSON of Indiana. Mr. President——

Mr. BINGHAM. I yield to the Senator from Indiana.

Mr. ROBINSON of Indiana. May I ask the Senator from California a question, if the Senator from Connecticut will permit me? Suppose the Supreme Court has laid down rules for the interpretation of treaties. Who will interpret this treaty in the event that we should become signatories to this pact?

Mr. SHORTRIDGE. That is a very thoughtful question, and the subject matter of the question had occurred to me.

The Supreme Court of our country perhaps might never be called upon; but in so far as we are concerned—we, the Senate—I think we are justified in proceeding along the lines mapped out by our Supreme Court.

Mr. ROBINSON of Indiana. But who would construe the method of interpreting the treaty?

Mr. SHORTRIDGE. Assume a trouble arising between two nations.

Mr. ROBINSON of Indiana. Between some other nation and ourselves?

Mr. SHORTRIDGE. Precisely, and both are perfectly willing to refer it to arbitration.

Mr. ROBINSON of Indiana. Then foreign arbitrators, in that event, would construe the treaty.

Mr. SHORTRIDGE. Unquestionably so.

Mr. ROBINSON of Indiana. Our Supreme Court, then, would be entirely out of consideration so far as the foreign arbitrators are concerned?

Mr. SHORTRIDGE. To this extent: Those representing us in and about the interpretation of the treaty under consideration by the arbitrators undoubtedly would impress upon the arbitrators the proper rules for interpreting the treaty, and doubtless would have recourse to decisions of our high court in support of their contentions.

Mr. ROBINSON of Indiana. Mr. President, suppose this question should arise: Suppose that Japan, for instance, should negotiate with Mexico for territorial concessions; and suppose that Mexico were friendly to the idea, and the arrangement were made. Then assume that the United States should object and say that that violated our understanding of the Monroe doctrine.

Mr. SHORTRIDGE. Precisely.

Mr. ROBINSON of Indiana. But suppose that both Japan and Mexico in that situation insisted that they were going through with their understanding. We are bound to use pacific means for arriving at the solution of any controversy or question. Suppose they suggest, then, that under this treaty we refer the whole question to some tribunal pacifically. Then would it be our policy to permit that to be done?

Mr. SHORTRIDGE. We have always said that we reserved that doctrine.

Mr. ROBINSON of Indiana. But suppose we state that we reserve the right to interpret the Monroe doctrine, then suppose the other two nations insist on having the matter settled by some other pacific means: What is our alternative?

Mr. SHORTRIDGE. With equally pacific mind we have said we reserved that doctrine; we interpret that doctrine.

Mr. ROBINSON of Indiana. But we have not reserved it in the treaty up to date.

Mr. SHORTRIDGE. I think we have.

Mr. ROBINSON of Indiana. But suppose these nations have the same view that I have, and then it were referred to arbitration?

Mr. SHORTRIDGE. Of course, there are some things that could not be referred to arbitration, and this Monroe doctrine is one of them.

Mr. ROBINSON of Indiana. But would the Senator then go to war in that instance?

Mr. SHORTRIDGE. No; I would not necessarily go to war.

Mr. ROBINSON of Indiana. The Senator would let them go through with the understanding with Mexico?

Mr. SHORTRIDGE. I would not.

Mr. ROBINSON of Indiana. What would the Senator do?

Mr. SHORTRIDGE. I would merely indicate our objection, and I think that would be sufficient.

Mr. ROBINSON of Indiana. But suppose it were not sufficient?

Mr. SHORTRIDGE. It was sufficient in the case of Magdalena Bay.

Mr. ROBINSON of Indiana. I am assuming that it would not be sufficient in this instance.

Mr. SHORTRIDGE. I think the Senator has in mind the supposed—I will not say it was a fact—endeavor of an Asiatic country to acquire a naval base at Magdalena Bay.

Mr. ROBINSON of Indiana. Oh, I remember that quite well; but this treaty was not in existence then.

Mr. SHORTRIDGE. Ah, but the Lodge resolution which passed this body was immediately passed.

Mr. ROBINSON of Indiana. But this treaty supersedes that in the event we become a signatory.

Mr. SHORTRIDGE. I think not. The Senator means that it supersedes the Monroe doctrine?

Mr. ROBINSON of Indiana. The resolution of which the Senator speaks.

Mr. SHORTRIDGE. The resolution was but, perhaps, an enlargement of the Monroe doctrine, although it was grounded upon another well-known principle.

I may allude to that hereafter, but at the moment, if the Senator recalls it, it was thought that an Asiatic country was seeking a naval base at Magdalena Bay, and Senator Lodge, then chairman of the Foreign Relations of the Senate, intro-

duced a resolution bearing on that question. After discussion the resolution, as originally introduced, was amended. It was very thoughtfully considered, and it passed this body, as I recall, by a vote of 51 to 4.

I contend that the Monroe doctrine is reserved from discussion between us and other nations. All the nations of the earth understand this doctrine. Every one of them understands it. There is no question about it; and to repeat myself over and over again, it needs no reservation, it needs no new promulgation. That doctrine is grounded on the natural law of self-defense. If anybody wishes to get at the scope and meaning of that doctrine let him read what former President Grover Cleveland said about it during the Venezuela controversy with England.

Mr. ROBINSON of Indiana. Will not the Senator confine himself to a specific answer to the specific question? Assume that we should become signatory to this treaty, and that very question did arise, and both Japan and Mexico should insist on arbitrating the question of whether the Monroe doctrine applied or not, and suppose we yielded. Then we would surrender the Monroe doctrine, would we not? The minute we permit the Monroe doctrine to be arbitrated by any foreign arbitrator or any world tribunal we surrender the Monroe doctrine.

Mr. SHORTRIDGE. That is the very thing we do not propose to do—yield to arbitration as to what constitutes this American doctrine, and we are not obligated to do so under this treaty. I listened attentively the other day to the argument of the Senator from Indiana, and I have reflected over it. I do not think it can be held that by this treaty we surrender in any way this doctrine, or put it in question, so that it would be the subject of arbitration between any two nations or ourselves.

Mr. ROBINSON of Indiana. I am just assuming that the other nations would insist, in a case of that kind, that the Monroe doctrine did not apply, and in that event, if it were left to arbitration, we would surrender the Monroe doctrine.

Mr. BINGHAM. Mr. President, again we have evidence that two good men can differ very materially in regard to the interpretation of this treaty, and we have further evidence of the incontrovertible fact that the Foreign Relations Committee does not itself seem willing to present a report which will state what they believe the treaty means and what they believed it meant when they recommended it.

I wish that some members of that committee, or the distinguished chairman of it, would give us conclusive reasons for their failure to do what a committee ordinarily does in reporting a great measure, for their failure to present a written report. Is it because they desire to leave it open, and to leave it broad, and to let anyone interpret it in any way he desires? If that is the case, then we are certainly riding for a fall.

Mr. SHORTRIDGE. It is not usual for the Committee on Foreign Relations to accompany a treaty with a report when we sit in executive session.

Mr. BINGHAM. The rules of the Senate do not permit us to discuss what happens in closed executive session.

Mr. SHORTRIDGE. I do not at the moment recall a case where there has been a written report of the Foreign Relations Committee.

Mr. BINGHAM. I see on the floor the Senator's distinguished colleague who has been a member of that committee for many years.

Mr. JOHNSON. The Senators will recall what was a matter of great controversy here, the Colombian treaty. We had majority and minority reports upon that. In matters that are of consequence I think reports are filed. But I have distinctly in mind that in the case of the Colombian treaty there were minority and majority reports, and a very long debate upon both.

Mr. SHORTRIDGE. Yes; there were reports and there was debate. The Senator is correct. He refreshes my mind as to that.

Mr. BINGHAM. I should like to quote a few sentences from Doctor Oppenheim's great treatise on international law, particularly because Doctor Oppenheim, in presenting this treatise, stated that it was intended not for those who were learned in the subject, but for those who took an interest in international law, were not jurists, and had had no legal training; in other words, people like the great majority of people in the United States, who are taking an interest in this treaty at the present time. They are not international lawyers, they are not jurists, most of them have had no legal training, but they are tremendously keen about the treaty, because it represents, they believe, an ideal. I should like to call to their attention the words of Oppenheim on page 560, where he says:

> The terms used in a treaty must be interpreted according to their usual meaning in the language of everyday life.

Certainly, if you were to ask the ordinary person not familiar with law, not a jurist, not an international lawyer, but thoroughly conversant with the language of everyday life, what is meant by an agreement never to settle all disputes or conflicts of whatever nature or whatever origin they may be which may arise among the nations except by pacific means, my impression is that he would place an entirely different interpretation upon that language from that which is placed on it by the distinguished chairman of the Foreign Relations Committee, and others more conversant with international law than the ordinary man. In other words, it does not seem to be fair to the great majority of the people of this country who are interested in these matters to ratify a treaty which they interpret, as Oppenheim says, in the language of everyday life, when, in that light, it does not mean what it says, there is a lot behind it—the right of self-defense, which includes very extensive possibilities, such as the Monroe doctrine, such as sending cruisers and marines to all parts of the world.

Oppenheim goes on to say:

> It is taken for granted that the contracting parties intend some reasonable, something adequate to the purpose of the treaty, and something not inconsistent with generally recognized principles of international law and with previous treaty obligations toward third states. If, therefore, the meaning of a stipulation is ambiguous, the reasonable meaning is to be preferred to the unreasonable, the more reasonable to the less reasonable, the adequate meaning to the meaning not adequate for the purpose of the treaty.

"Not adequate for the purpose of the treaty." The purpose of the pending treaty, I take it, is to outlaw war, as has been frequently stated, and to promote peace. It is difficult for some people to see how the adequate meaning of this treaty can be held to be adequate for the purpose of the treaty and at the same time to promote wars of self-defense.

Oppenheim further says:

> The principle in dubio mitius must be applied in interpreting treaties. If, therefore, the meaning of a stipulation is ambiguous, the meaning is to be preferred which is less onerous for the obliged party, or which interferes less with the parties' territorial and personal supremacy, or which contains less general restrictions upon the parties.

I shall refer to one more writer and then I shall have done. Sir Robert Phillimore prepared a great work on international law in half a dozen volumes entitled "Commentaries on International Law," which is generally recognized as being one of the great authorities on this subject. In volume 2 of the third edition, chapter 8, on Interpretation of Treaties, he states:

> In all laws and in all conventions the language of the rule must be general and the application of it particular. Moreover, cases arise which have perhaps not been foreseen, which may fall under the principle, but which are not provided for by the letter of the law or contract. Circumstances may give rise to real or apparent contradictions in the different dispositions of the same instrument, or of another instrument * * * which may require to be reconciled. These are difficulties which may arise between contracting parties disposed to act honestly toward each other, but they may not be so disposed; one of them may endeavor to avoid his share of the mutual obligation.

Similar cases might easily arise under this treaty.

> Indeed, there is no need for a priori reasoning on a subject amply demonstrated both in the covenants of individuals and the treaties supposed to be a matter of practical necessity.
>
> The interpretation is the life of the dead letter; but what is meant by the term "interpretation"? The meaning which any party may choose to affix or a meaning governed by settled rules and fixed principles, originally deduced from right reason and rational equity and subsequently formed into laws? Clearly, the latter.

It would seem to prevent us from giving any interpretation to the treaty which we seem inclined at the moment to give it. He goes on to say in paragraph 67:

> The general heads under which, for the sake of perspicuity, we may range the principles and rules of interpretation are the following:
>
> Authentic interpretation. * * *
>
> Usual interpretation. * * *
>
> Doctrinal interpretation. * * *
>
> Authentic interpretation in its strict sense means the exposition given by the lawgiver himself; it is, therefore, strictly speaking, inapplicable to the case of treaties.

Since any effort on our part to interpret it afterwards, or the meaning which we desire to give it ourselves is inapplicable to the case of treaties, it would seem to be all the more important for an official interpretation to be given at this time.

Mr. President, the hour is late, and I ask unanimous consent that there may be included in the RECORD at this point several

paragraphs, quoting from Phillimore's work, which call attention to the rules to be followed in the interpretation of treaties.

The PRESIDING OFFICER. Is there objection?

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

[From "Commentaries on International Law," by Sir Robert Phillimore, vol. 2]

Usual interpretation is, in the case of treaties, that meaning which the practice of nations has affixed to the use of certain expressions and phrases, or to the conclusions deducible from their omissions, whether they are or are not to be understood by necessary implication.

* * * * *

Doctrinal interpretation is, as has been said, either, 1, grammatical or philological; or, 2, logical; and first—

As to grammatical interpretation, we must not confound translation and etymology with interpretation. It has been well observed that though it may not be easy to determine with exact precision where the province of the grammarian and the lexicographer ends and that of the interpreter begins, and though their provinces may be scarcely distinguishable upon their confines, yet that in their remote extremities, and for practical purposes, they are sufficiently distinct. A competent knowledge of the language in which the covenant is written is, in fact, necessarily supposed to precede or accompany the work of interpretation; and with respect to etymological refinements, they can but rarely have any place in the legitimate construction of a law or contract; the meaning of the words employed by the lawgiver, or by the parties, is to be sought in the common usage and custom, which indicate the consent of those who use them, that they should bear a particular meaning.

* * * * *

The principal rule has been already adverted to, namely, to follow the ordinary and usual acceptation, the plain and obvious meaning of the language employed. This rule is, in fact, inculcated as a cardinal maxim of interpretation equally by civilians and by writers on international law.

Vattel says that it is not allowable to interpret what has no need of interpretation. If the meaning be evident, and the conclusion not absurd, you have no right to look beyond or beneath it, to alter or add to it by conjecture.

* * * * * * *

With respect to difficulties of construction, arising from both foregoing sources of doubt, two general rules are applicable.

1. That the contracting party, who might and ought to have expressed himself clearly and fully, must take the consequences of his carelessness, and can not, as a general rule, introduce subsequent restrictions or extensions of his meaning.

2. That what is sufficiently declared must be taken to be true, and to have been the true intention of the party entering into the engagement.

Mr. BINGHAM. Mr. President, I can not finish what I have to say without remembering that at various times in my own life I have been in foreign countries, on expeditions of one sort or another, where my intentions were misconstrued, where the object of the scientific expedition was entirely misinterpreted, where the good citizens of the country or countries concerned have honestly held to the opinion that the expedition was not a scientific expedition, carried on for altruistic purposes, and in the interest of science alone, but have held that it was either a secret expedition fathered by the United States for the purpose of finding out something about the interior of those countries for the benefit of our Army, or was an expedition for the purpose of stealing some of their ancient treasures, the gold ornaments and the gold treasures of their ancestors. They have believed that the reason why these expeditions were continued from time to time was that we succeeded in finding a large amount of gold which properly belonged in their own museums and to their own countries. I mention those things merely to show how easily misunderstandings arise when our own citizens are in foreign countries.

I recollect at one time I was practically under arrest and that my headquarters in the interior of one of these foreign countries was surrounded by the soldiers of that country because charges had been made by responsible officials of one of the higher institutions of learning against the expedition on the ground that we were engaged in robbing the country of their ancient treasure. There was no evidence whatever, but according to the law of that country it was not necessary that they adduce evidence. Senators will realize that it is only in a few countries in the world where habeas corpus proceedings may be demanded. It is only in a very few countries of the world where a man is considered innocent until he is proven guilty. In a very large number of countries in the world a man is held to be guilty if he is charged with a crime and it is his duty to prove his innocence. It is extremely difficult to prove one's innocence when there is no evidence of one's guilt to contravene. It places one in a very embarrassing position.

Mr. BRUCE. Mr. President, will the Senator yield?

Mr. BINGHAM. I should like very much to be permitted to conclude the thought I now have in mind.

Mr. BRUCE. I should like to call the attention of the Senator to the fact that that is the rule of evidence which our friends, the prohibitionists, are advocating at the present time, as they have done for the last year or two. It is a part of the coming prohibition program that there is a presumption of guilt until the contrary is established by the accused.

Mr. NORRIS. Mr. President, if I may interrupt the Senator——

Mr. BINGHAM. I yield.

Mr. NORRIS. I would like to suggest that it is very fortunate for the Senator from Idaho and myself that we were not down in that country just the other day, where we would not have had any right to defend ourselves.

Mr. BINGHAM. It has occurred to me that if a larger number of the Members of this body had to do business in foreign countries, as do those engaged in export trade or those engaged in scientific exploration, they would appreciate the importance of doing nothing to tie our hands in defending our citizens and securing their rights when they are menaced in foreign lands.

I was about to say when I was interrupted by the Senator from Maryland that at the time of which I was speaking, when my own liberty was menaced and I was threatened with imprisonment, so lightly was the United States considered in that country and so unlikely was it regarded as being willing to protect its citizens that the representations of our minister availed nothing with the president-dictator of that country. On the other hand, so well known was the habit of Great Britain in defending British subjects, in whatever part of the world they may be, by sending cruisers and by insisting on legal rights, that when the minister of Great Britain and the head of the British colony went to see the president-dictator it made an impression, and the soldiers were removed and I was no longer in danger of imprisonment.

That happened at a time when there was a Secretary of State who was not as anxious to protect American citizens abroad as is the present distinguished occupant of that office. That happened at a time when we had a Secretary of State, as we may have again in the future, who, when his attention was called to the fact that Americans might suffer abroad and were suffering in foreign countries, said, "Why do they not come home, then? They will be safe at home. Why should they go to any country where they may be in danger?"

Mr. President, that is not my idea of the way to promote the prosperity of our country or the security of our citizens or respect for us abroad. I hope not to live long enough to see another Secretary of State who will take a similar view, but the day might come when we might have a Secretary of State who would believe that American citizens should not be protected abroad. For that reason I hope very sincerely that the Senate will not ratify this treaty without there being more of an official interpretation placed upon the records of the Senate than there is at present.

I hope that before we are asked to vote on the ratification of the treaty the committee will present a report showing that in no way does the treaty interfere with the right of our defending our own territory, nor in the slightest degree interfere with our right to defend the lives and property of our citizens in any part of the world. If the day should come when we can not do that, then we may well be ashamed of being Americans. I hope never to see that day come. I am proud of being an American, although there have been times during my short life when I have seen things happen in foreign countries that made me ashamed of my country.

I want no action of the Senate to be taken that will lead to a situation wherein the citizens of this country will feel ashamed of being Americans. On the contrary, I hope that the Senate will take such action as may make sure in the future that every citizen of our country in everything concerned with our foreign relations and with the lives and property of our citizens abroad may say with pride, "I am an American."

Mr. RANSDELL. Mr. President, the Briand-Kellogg pact, declaring the outlawry of war and binding its signatories never to seek a solution of disputes or conflicts between them except by pacific means, is the most remarkable step toward world peace ever undertaken. I am not visionary enough to believe that this pact means perpetual peace on earth, but I am convinced that it will be of greater assistance in promoting peace and preventing war than any treaty or international agreement heretofore adopted.

This treaty condemns recourse to war for the solution of international controversies in the relations of nations with one

another, and really outlaws war, which heretofore has been one of the most important and highly respected avocations of man, which has received universal sanction, and been practiced throughout all ages by all nations and races of men, savage and civilized. Recorded history is substantially a record of the wars between nations, infinitely more space and prominence being given to the description of battles and the awful destruction of men and cities than to the arts of peace and things which promote human welfare and happiness. Even the Old Testament is largely devoted to accounts of wars, which were so common in the old days that the Scripture refers to certain seasons of the year as the time when kings go out to war.

Prior to the advent of the Prince of Peace, less than 2,000 years ago, war was the principal business of mankind, and all prisoners of war were enslaved. Athens, the center of ancient civilization, art, and science, had only 20,000 free men and 400,000 slaves. During the first 600 years of the Roman Republic the Temple of Janus, open in time of war and closed in time of peace, was closed but for four brief periods. During recent years, however, war has been much less frequent than in the past, and the world seems gradually tending toward peace.

It may truthfully be said that war has ceased to be a probable source of benefit to the conquering state. The victor loses and suffers in many instances no less than the vanquished. War no longer pays; it exhausts and devitilizes both sides. Those who carry the honor of the field find little, if anything, with which to compensate and reward their own losses and contributions.

In addition to being the greatest humanitarian question in the world, modern war has also become our most acute economic problem. The Great War swept away over $300,000,000,000 of accumulated wealth and its indirect loss in the misdirected energies of the peoples of most of the highly civilized nations of the world, and in the curtailing of their productivity would probably double that amount. Therefore, statesmen and business men can not regard war as a problem for pacifists, churchgoers, and women, but one which has now become paramount for themselves as well.

Since the recent World War, fundamental changes have taken place in the very conception of war. That titanic struggle produced many unfortunate results, but it produced some good also. The best result of the World War was that it convinced not only the statesmen of many nations but the peoples thereof that resort to modern science has rendered war so destructive of life and property that unless our civilization shall find some means of making an end of war the next war will make an end of civilization.

Let me recall in a few words the evidence upon which this fateful conclusion was reached. Seven million five hundred thousand of the youth of the world were killed in battle; 5,500,000 more were so desperately wounded that they died within a few days after the battles; so that it is fair to say that the direct deaths of the World War were 13,000,000 men. Twenty million were wounded, not mortally, but so seriously that in many cases death would have been a happy release to them. Never was there such a slaughter of human beings in the history of the world. Consider for a moment the destruction of property. The best authorities estimate the direct losses of property at $186,000,000,000, the indirect losses at $151,000,000,000, or a total of $337,000,000,000. The mind can not grasp such totals, but by comparison let me say that it is as great a destruction of property, aside from the awful losses of human life, as if the United States, with all we possess, had been sunk to the bottom of the sea by an earthquake or other calamity. These are among the facts that have convinced many nations that unless our civilization finds some means of making an end of war modern war will make an end of civilization.

The eminent sociologist, Dr. John A. Ryan, recently said:

> One of the greatest obstacles to peace has always been the lazy assumption that wars must come; that there will always be war while men are men. So long as this pessimism prevails the majority of persons will not assert themselves in the cause of peace. World peace is largely, if not mainly, a matter of human faith. If the majority of people believe that peace can be established and secured, peace will be established and secured. Therefore, we must strive to make people think and talk peace. We must incessantly declare the feasibility of a reign of peace until this idea and faith become a dominating and effective element in the habitual thinking of the average man and woman. No human being knows whether war can be forever banished from the earth. Only God knows. We do know, however, that war may be made more and more remote through human action aided by the grace of God.

In that program Christian principles must find specific and detailed application. As followers of the Prince of Peace, we have the spiritual responsibility of promoting peace not only in our own country but throughout the world. It is not an easy task to apply the moral principles of Christianity to international affairs. There must be both individual instruction and political instruction. Under the first head the religious teacher must declare, expound, interpret, illustrate, and make concrete God's commandment "Thou shalt not kill." This teaching must be imparted to all groups and classes. It is not enough to declare that "every human being is my neighbor." Men must be reminded that "every human being" includes Frenchmen, Germans, Italians, Chinese, Englishmen, Irishmen, Japanese, and all other divisions of the human family. This doctrine should be repeated and reiterated. Effective teaching and adequate assimilation depend largely upon the simple process of repetition.

It is generally conceded that morality is best taught in the church, the home, and the school. Since peace is kindred to morality, let me cite one of the obstacles that must be overcome so far as teaching peace in the schools is concerned:

Not long ago a study was made by three American college professors of 24 history texts and 24 supplementary readers in order to ascertain the extent to which war is emphasized or favored in these school manuals. The investigation showed an excessive amount of space devoted to war; the amount devoted to peace almost negligible; the discussion of war nationalistic, biased, and in many cases flamboyant; the war illustrations reflecting only the glorified imaginings of the artists; very little telling of the real truths about war; and the great military leaders receiving vastly more attention than the conspicuous leaders in the arts of peace.

In taking advantage of every avenue to world peace advocates of that great work should not overlook the schools. Here is one of their greatest opportunities for impression upon the young minds—those who will soon undertake the responsibility of the world's affairs. It is not surprising that our children should receive the impression that war has contributed largely to the development of mankind when so large a part of our histories and so much of the literature studied in our schools is devoted to the details of the battle field, dwelling so emphatically upon the picturesque features of war—the marshaling of soldiers, the stirring music, the brilliant charge of armies—everything to glorify war and its heroes. The other side of the picture should be carefully portrayed—the return of the regiments, reduced to a tenth of their original number, maimed and feeble, carrying torn and blood-stained battle flags, and the terrible losses of life and property, with the consequent sorrow and suffering. The study of history should dwell largely upon the peaceful pursuits of life—agriculture, trade, commerce, science, and so forth.

People of all nationalities and races, of all forms of religious beliefs, and citizens of every government on earth, no matter how much they may differ in other things, can and will unite in efforts for preventing war and promoting peace. This is one thing on which there is no difference of opinion anywhere; and every human being realizes the incalculable benefits that would result if wars should cease forever and peace reign supreme.

How, then, is this end which we all so much desire to be attained? The peace pact makes a fine start by declaring it a crime to engage in war except in national self-defense. But human nature is weak and selfish, and the habits and tendencies of all past generations are hard to overcome. It was extremely difficult to prevent dueling in America; but when the laws of all our States had made it murder to kill a man in a duel that barbarous practice gradually fell into disuse, and men began to settle their differences in peaceful ways, such as arbitration or suits in the courts.

Nations can and will do likewise. Men fought duels when it was considered brave and honorable so to do, but they ceased when dueling became murder under the law and public opinion denounced as criminals those who took life in a duel.

When war has been outlawed by consent of all the world and is no longer respectable except in legitimate national self-defense, nations will not seek excuses for going to war but will resort to peaceful methods for adjusting their disputes.

To bring about world peace we must make a start in our own localities and work on the idea that everyone must be just to his fellow men and promote peace and happiness in his own neighborhood by giving to everyone his due and practicing justice at all times.

If justice be our guide and rule of life in all our private affairs, it will prevail in State, National, and international affairs, with world peace as a result.

We must arouse public opinion in favor of peace and against war. No force is so strong as public opinion when emphatically asserted and supported by sound logic and simple justice. Children must be taught the beauties of peace and the horrors of war at their mother's knee and in the schools. The churches must impress upon their membership that war as a method of settling international differences is a crime, and that disputes between nations can be adjusted by international tribunals in the same way that those between individuals are disposed of by arbitration and courts of justice.

It would be horrible to contemplate a return to savagery among our citizens, when might was right and courts of law were unknown; and what is war but the application of force, of might instead of right? The peace pact provides that right, not might, shall be our guide in the future.

EXECUTIVE SESSION BEHIND CLOSED DOORS

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business behind closed doors.

The motion was agreed to, and the doors were closed. After five minutes spent in executive session the doors were reopened.

RECESS

Mr. CURTIS. As in open executive session, I move that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to; and (at 4 o'clock and 40 minutes p. m.) the Senate took a recess in open executive session until to-morrow, Friday, January 11, 1929, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 10 (legislative day of January 7), 1929

POSTMASTERS

NEW JERSEY

David Tumen, Atlantic Highlands.
John R. Yates, Bivalve.
Earl C. Woodworth, Essex Fells.

NORTH CAROLINA

Roger V. Phillips, Grifton.

NORTH DAKOTA

Myron B. Fallgatter, Kintyre.
Bernice R. Ronning, Kramer.

PENNSYLVANIA

Herald H. Spaide, Ashland.
Mary G. Cann, Stoneboro.

UTAH

Carlos C. Hansen, Midvale.

WYOMING

Charles M. FitzMaurice, Greybull.

HOUSE OF REPRESENTATIVES

THURSDAY, *January 10, 1929*

The House met at 12 o'clock, noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O blessed Teacher of Nazareth, Thou hast said: "Learn of me, for I am meek and lowly of heart." We would sit at Thy footstool; our hunger for knowledge is the sure reality of our divine nature. We wait on Thy altar stairs. Teach us the patience of prayer not answered, and also, they serve Thee who stand and wait; teach us the sanctity of life's quiet moment; teach us the sympathetic meaning of life's checkered pathway and the far-away stretch of life's undying hope. O Lord, teach us the heavenly joy of pure love and the happiness that radiates about the consecrated fireside. And, Father in Heaven, we are thankful for the warmth of fidelity in the hearts of our fellows and for the countless mercies that stream forth from the hidden secrets of this dear old earth. We wait with bared head and beseeching hand. Teach us, O God. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate insists upon its amendments to the bill (H. R. 15569) entitled "An act making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1930, and for other purposes," disagreed to by the House of Representatives, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. JONES, Mr. WARREN, Mr. SMOOT, Mr. BORAH, Mr. OVERMAN, and Mr. HARRIS to be the conferees on the part of the Senate.

The message also announced that the Vice President had appointed Mr. REED of Pennsylvania and Mr. SIMMONS members of the joint select committee on the part of the Senate as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the Executive Departments," for the disposition of useless papers in the Treasury Department.

BILLS PRESENTED TO THE PRESIDENT

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President for his approval bills of the House of the following titles:

H. R. 53. An act to provide for the collection and publication of statistics of tobacco by the Department of Agriculture;

H. R. 3041. An act for the relief of Alfred St. Dennis;

H. R. 4935. An act to authorize the appointment of First Lieut. Clarence E. Burt, retired, to the grade of major, retired, in the United States Army;

H. R. 8798. An act for the relief of William Lentz;

H. R. 8974. An act authorizing the President to order Oren W. Rynearson before a retiring board for a hearing of his case and upon the findings of such board determine whether or not he be placed on the retired list with the rank and pay held by him at the time of his resignation;

H. R. 11071. An act providing for the purchase of 1,124 acres of land, more or less, in the vicinity of Camp Bullis, Tex., and authorizing an appropriation therefor;

H. R. 12897. An act to provide for the acquisition of a site and the construction thereon of a fireproof office building or buildings for the House of Representatives;

H. R. 13033. An act authorizing the Secretary of War to convey certain portions of the military reservation at Monterey, Calif., to the city of Monterey, Calif., for the extension of Alvarado Street;

H. R. 13404. An act authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the Louisiana State Museum of the city of New Orleans, La., the silver service set in use on the battleship *Louisiana;*

H. R. 13503. An act granting the consent of Congress to the State of Minnesota to construct, maintain, and operate a free highway bridge across the Mississippi River at or near Hastings, Minn.;

H. R. 13540. An act granting the consent of Congress to the State Highway Commission of Arkansas to construct, maintain, and operate a bridge across the Ouachita River at a point between the mouth of Saline River and the Louisiana and Arkansas line;

H. R. 13826. An act authorizing the Interstate Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Missouri River at or near Union, Nebr.; and

H. R. 13848. An act to legalize a bridge across the Potomac River at or near Paw Paw, W. Va.

DIVEST GOODS, WARES, AND MERCHANDISE MANUFACTURED, PRODUCED, OR MINED BY CONVICTS OR PRISONERS OF THEIR INTERSTATE CHARACTER IN CERTAIN CASES

Mr. KOPP. Mr. Speaker, I call up the conference report on the bill H. R. 7729, an act to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases, and I ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from Iowa calls up the conference report on the bill H. R. 7729, and asks unanimous consent that the statement be read in lieu of the report. Is there objection?

There was no objection.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7729) entitled "An act to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 3.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, and 4, and agree to the same.

W. F. KOPP,
FREDK. N. ZIHLMAN,
WILLIAM P. CONNERY, Jr.,
Managers on the part of the House of Representatives.

JAMES COUZENS,
SIMEON D. FESS,
HARRY B. HAWES,
Managers on the part of the Senate.

STATEMENT

The managers of the House submit the following statement in explanation of the action agreed upon and recommended in the conference report, namely:

The first amendment of the Senate excepts "convicts or prisoners on parole or probation." This amendment in no way conflicts with the purpose or spirit of the bill. It may be unnecessary but it is not prejudicial.

The second amendment of the Senate excepts "commodities manufactured in Federal penal and correctional institutions for use by the Federal Government." The Federal Government manufactures a number of articles in its penal and correctional institutions, but it makes no sale of any of them on the open market. All the products manufactured by the Federal Government are for the use of the Federal Government. As the policy of the Federal Government is entirely in harmony with this bill, we regard the exception as entirely proper. Many thought that the Federal Government under the original bill had all the rights which this amendment undertakes to preserve, but the managers on the part of the House saw no reason for opposing an amendment which simply safeguards the rights of the Federal Government by express language.

The bill as passed by the House provided that the act should take effect three years after its approval. The Senate, by the fourth amendment, extended the time to five years. In view of the difference of opinion on this question, it was thought best to accept the amendment and end the controversy on that point.

The third amendment of the Senate was eliminated, and this action was in harmony with the previous action of this House.

W. F. KOPP,
FREDERICK N. ZIHLMAN,
WILLIAM P. CONNERY, Jr.,
Managers on the part of the House.

Mr. RAMSEYER. Will the gentleman from Iowa yield me three minutes?

Mr. KOPP. I yield to the gentleman three minutes.

Mr. RAMSEYER. Mr. Speaker, when this bill was called up before the holidays and unanimous consent asked to agree to the Senate amendments I was the one who objected. My objection was based on the ground that a very substantial amendment had been adopted to the bill in the Senate, and in case of such Senate amendments I think that we should always refer the bill either to the committee having charge of the bill, so that we can have the committee's judgment on the Senate amendments, or send the bill to conference, where differences between the two Houses can be thrashed out and composed.

The bill went to conference and the amendment that I regarded as objectionable has been eliminated by the conferees. In that respect the bill has been improved and is along the line of action of the House last May, when the bill was before the House of Representatives for consideration and passage.

The bill was also improved in adding two years to the length of time before the bill goes into effect, making it five years instead of three years.

With the elimination of the third amendment it at least makes the bill applicable to all kinds of goods alike and does not discriminate against the farmer. The Senate amendment No. 3 would have discriminated against the farming industry. The position of the House was very clearly against such discrimination and in conference won out on this point. The House conferees carried out the mandate of this body and are to be commended.

My fundamental objection to the bill is that it is unconstitutional, but there is no use in further pressing this objection at this time. I hope the President and the Attorney General will give that phase of the bill most careful consideration, and undoubtedly it will receive careful consideration before the bill is finally passed on by the President.

We realize that the bill is going to impose many hardships on the prison authorities and on the taxpayers of the different States, but that matter has already been decided by the two Houses, and, of course, is water over the dam.

With this brief statement I do not care to delay the House in its approval or disapproval of the conference report.

Mr. CLARKE. The gentleman feels that the fundamental objection to the bill is that it is unconstitutional?

Mr. RAMSEYER. That is the way I think about it.

Mr. SNELL. Will the gentleman from Iowa yield?

Mr. KOPP. I yield.

Mr. SNELL. Will the gentleman explain what happened in conference?

Mr. KOPP. The only change really made in conference was the extension of the time for the bill to go into effect by two years. We conceded that the time might be five years instead of three years. Of the two other amendments agreed upon, one related to the exception of prisoners on probation or parole. We thought that was included in the original bill. The Senate thought not, and we accepted it. The other amendment related to goods manufactured at Federal prisons.

Mr. SNELL. What happened as to the amendment for processed goods?

Mr. KOPP. That was eliminated.

The SPEAKER. The question is on agreeing to the conference report.

The conference report was agreed to.

REFERENDUM ON WAR

The SPEAKER. Under the order of the House the Chair recognizes the gentleman from New York [Mr. FISH] for 10 minutes.

Mr. FISH. Mr. Speaker and gentlemen of the House, I rise to call the attention of the Members of the House to a joint resolution which I have just introduced providing for a constitutional amendment for a referendum on war. I will read the resolution, as it is self-explanatory.

The resolution is as follows:

Joint resolution proposing an amendment to the Constitution of the United States for a referendum on war

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as a part of the Constitution when ratified by the legislatures of three-fourths of the several States:

ARTICLE —

The Congress shall have power to declare war; but war, except in defense of the United States, shall not be waged by the United States until a declaration of war by the Congress shall have been ratified by a majority of the qualified electors in the several States in the manner provided by the laws of each State for chosing Representatives in the Congress, at a time which the President shall fix immediately following such declaration. But when an actual state of war exists the President shall have power to recognize it and to take appropriate action to terminate it.

The proposed constitutional amendment is the natural and logical step after the ratification of the Kellogg multilateral treaty. There are those who believe that the multilateral treaty is a mere gesture, that it is a frigid kiss among nations, that it is a scrap of paper. There are, on the other hand, an overwhelming majority of the people who believe that the renunciation of war, except for self-defense, is the most forward step taken to do away with, or at least limit, wars since the beginning of all history. When the enlightened countries of the world give their plighted word to renounce wars, except for self-defense, it means far more than a mere gesture. It means that war is put beyond the law, that it is outlawed. It means that it is delegalized and made unlawful for the first time in the history of the world. Until we ratify the Kellogg pact the Emperor of Japan has a perfect right under the present status of war to declare war on the United States or to declare any other war of aggression. He would be just as lawful and legal in doing so as it is for you Members to belong to this House, to send your children to the public schools, or to belong to a church. The multilateral treaty proposes to renounce war and to make it unlawful, to take this ancient institution, recognized and entrenched in every civilized country, and put it beyond the law. I am offering the resolution at this time, when people are thinking in terms of peace and the outlawry of wars between nations, except strictly for self-defense, which in my opinion means invasion or threat of invasion. The resolution that I have proposed gives the power to the people of the country to determine whether we should go to war except in self-defense.

Mr. SCHAFER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I prefer not to yield until I get through with my statement. The act of war is the highest act of sovereignty, all consuming and all absorbing, involving the lives, the prop-

erty, and the happiness of all the people. It is on a different plane from any other of the constitutional powers, and in these days when a nation goes to war it compels the masses of the people to bear arms by the enactment of arbitrary conscription laws.

It is only right that the people have a say as to whether this country shall declare war or not. Either the democratic principle of submitting this supreme issue to the collective judgment of the people is right or we are afraid to trust the deliberate judgment of the American electorate. I propose this amendment not as a millennium, not as a panacea to forever do away with wars, but as a fundamentally sound proposal that the people be given the right to ratify a declaration of war made by the Congress, except in case of invasion or threat of invasion. It seems to me that the time is ripe for careful and serious consideration of such a proposal. If it is in the interest of the American people and that of world peace, it should be adopted; if not, a discussion of it on its merits or demerits will do no harm.

For example, suppose to-day that we had a President of the United States who was warlike, and he provoked a diplomatic breech with Mexico so that his party in power in Congress followed him, and we declared a war of aggression against Mexico, or a war against Canada, Japan, or any other nation. Is it not right in this great self-governing country that the people should have a voice when they are the ones to carry the rifles and to bear the burdens? Is there any sound reason or insuperable obstacle for not giving the American electorate a direct voice when the Government is confronted with the supreme decision precipitating the country in a war which might affect the very existence of the Constitution, the Government, and the people themselves?

This is no mere gesture. All I am asking at the present time is that the matter be considered carefully; and, if it is a step in the direction of peace, that it be considered by a committee of this House and that the people back home be informed that there is such an amendment before the Congress. Then, if the people want this right, if they want this power, let them make the request to the Congress of the United States. It is merely an extension of the powers given by our forefathers. They did not leave the right, or rather the power, because it is not a right, to declare war to the Senate of the United States. They gave it to the Senate and to the House. They gave to the Senate the power to declare peace, but not to declare war; and, therefore, this proposed constitutional amendment, which may seem revolutionary to some Members at the present time, has the indirect support of the American ambassador to Great Britain, Alanson B. Houghton, who holds the most important foreign post in the gift of our Government. He has made several notable addresses advocating giving the power to the people, by way of a referendum, to declare war. This is along the line, let me say to my Democratic friends, of the Bryan arbitration treaties, postponing a declaration of war to a period of one year after full and free investigation. There are to-day 19 of those treaties in existence. The Congress of the United States is not elected upon the basis of war and peace. It is elected on partisan issues. It is elected on issues of the tariff, on financial issues, on peace-time issues, and may not be representative of the great mass of the American people on the question of war and peace. When you come to consider this resolution, I hope that you will not consider it as something radical or urging peace at any price. We surrender no rights by this resolution. We simply permit the American public to be heard on the question of war and peace in case of a war of aggression. I believe it will be years before such a resolution can be passed, but I believe at the same time that it will be passed and probably in the lifetime of most Members of the present Congress. Why not have faith in the people of the United States and give them an opportunity to vote on this greatest of all issues involving their life, liberty, and pursuit of happiness. Let us bring the question of peace and war out into the open for the inspection and determination of a great self-governing people.

Mr. WOODRUFF. Mr. Speaker, will the gentleman yield?

Mr. FISH. Yes.

Mr. WOODRUFF. My friend speaks of the possibility of the country engaging in wars of aggression. I do not believe the history of this country is such that it would lead anyone to think that such a thing is imminent.

Mr. FISH. I do not believe it is imminent. There is, however, such a question about the war with Spain, in which the gentleman served. I do not think it was a war of aggression myself, but that is a debatable question. There may be at any time wars which may occur because of the desire of conquest, of some particular island in our sphere of influence that may bring about a war between us and some foreign nation; but I personally can not conceive of a direct war of aggression under the present or incoming administration.

The SPEAKER. The time of the gentleman from New York has expired.

Mr. WOODRUFF. Mr. Speaker, I ask unanimous consent that the gentleman's time be extended for two minutes.

The SPEAKER. Is there objection?

There was no objection.

Mr. WOODRUFF. Let me ask my friend what he would do if there were an invasion of this country, if such a constitutional amendment had been adopted and that all matters of this kind be referred to the people themselves before any action could be taken.

Mr. FISH. The gentleman evidently did not hear the resolution read. The resolution specifically excepts an invasion, which is a definite question of self-defense.

Mr. WOODRUFF. I am sorry. I came into the Chamber after the gentleman had been talking for some time.

Mr. GARRETT of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. FISH. Yes.

Mr. GARRETT of Tennessee. The latter part of the proposed amendment puts it absolutely in the hands of the President of the United States under the condition such as the gentleman from Michigan inquired about, but is it not a matter of history that every declaration of war that has ever been made by the Congress has been a declaration that war was already in existence?

Mr. FISH. Let me answer the gentleman by saying that such great generals as Grant, who served in the Mexican War, said the Mexican War was an unjust war and an aggressive war. That may or may not be an answer to what the gentleman has in mind.

Mr. GARRETT of Tennessee. I am speaking of a declaration of Congress upon the question. I do not remember the exact verbiage of the declaration in regard to the Mexican War, but it is my very distinct recollection that in every war in which we have participated the declaration has been by Congress setting forth that war was in existence.

Mr. FISH. Our troops had invaded Mexico at the time.

The SPEAKER. The time of the gentleman has expired.

Mr. SCHAFER. Mr. Speaker, I ask unanimous consent to proceed out of order for one minute.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin? [After a pause.] The Chair hears none.

Mr. SCHAFER. I would like to ask the gentleman from New York, who is going to determine whether the war is to be a war of defense?

Mr. FISH. If the gentleman asks me, I believe the Congress is competent to decide that together with the President. I believe, however, public opinion would be decisive.

Mr. SCHAFER. I mean before the matter is submitted to the American people after ratification by Congress who determines whether a war is a war of self-defense? In other words, does the gentleman think that the question of entering the World War would have been submitted to a vote of the American people if the gentleman's amendment was the law of the land?

Mr. FISH. Let me say to the gentleman that if the people of Europe had had a voice in deciding upon war in 1914 there might not have been a world conflict. I think the point by the gentleman from Wisconsin is well taken and that the resolution would be clearer if the words "invasion or threat of invasion" were substituted for the words "self-defense."

The SPEAKER. The time of the gentleman has expired.

SUPPLEMENTAL REPORT ON H. R. 14154

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to be permitted to file a supplemental report on the bill H. R. 14154, Report No. 1941, which is a bill to increase the building accommodations for the Army Medical School. The original report is very brief, and I think it would be desirable to have full information before the House. I was authorized by the committee to make the original report, and I desire to file a supplemental report.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

Mr. WINGO. Mr. Speaker, reserving the right to object, I did not hear what the request was.

The SPEAKER. It is to file a supplemental report on the bill mentioned.

Mr. WINGO. There was so much confusion I could not hear.

Mr. McSWAIN. The bill is to authorize an appropriation to increase the building accommodations of the Army Medical School.

Mr. WINGO. Did the gentleman file the original report?
Mr. McSWAIN. Yes.
Mr. WINGO. And this is to file a supplemental report?
Mr. McSWAIN. Yes.
The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

COL. PAUL V. M'NUTT, NATIONAL COMMANDER OF THE AMERICAN LEGION

Mr. TILSON. Mr. Speaker, I ask unanimous consent to proceed out of order for one minute.
The SPEAKER. Is there objection? [After a pause.] The Chair hears none.
Mr. TILSON. Mr. Speaker, a few days ago we had the honor of being visited by and having presented to us from the gallery the commander in chief of the Grand Army of the Republic. To-day we have the honor of having as a visitor in the Speaker's gallery the national commander of the American Legion, Col. Paul V. McNutt, and I wish to present him to the House. [Applause.]

APPORTIONMENT OF REPRESENTATIVES

Mr. MICHENER. Mr. Speaker, by direction of the Committee on Rules I present a privileged report, which I send to the Clerk's desk and ask to have read.
Mr. RANKIN. Mr. Speaker, I make the point of order there is no quorum present.
The SPEAKER. The Chair will count. [After counting.] One hundred and seventy-eighty Members are present, not a quorum.
Mr. TILSON. Mr. Speaker, I move a call of the House.
A call of the House was ordered.
The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 9]

Adkins	Curry	McMillan	Tillman
Allgood	Dempsey	McSweeney	Timberlake
Anthony	Denison	Milligan	Treadway
Arentz	Doyle	Montague	Tucker
Bell	Estep	Moore, Ky.	Updike
Berger	Evans, Mont.	Moore, N. J.	Vestal
Blanton	Fletcher	O'Brien	Ware
Boies	Fort	O'Connor, N. Y.	Warren
Britten	French	Palmer	Watres
Browne	Garber	Parks	Weaver
Bushong	Gasque	Patterson	White, Colo.
Canfield	Golder	Prall	White, Kans.
Carley	Griest	Pratt	Whitehead
Casey	Hull, Tenn.	Reed, Ark.	Williamson
Celler	Kearns	Sears, Nebr.	Wilson, Miss.
Clancy	Kerr	Somers, N. Y.	Winter
Cole, Md.	Kindred	Speaks	Wolfenden
Collins	King	Stedman	Wolverton
Cooper, Ohio	Kunz	Stobbs	
Crowther	Leatherwood	Taylor, Colo.	
Culkin	Leech	Temple	

The SPEAKER. Three hundred and forty Members are present, a quorum.
Mr. TILSON. Mr. Speaker, I move to dispense with further proceedings under the call.
The motion was agreed to.

APPORTIONMENT OF REPRESENTATIVES

Mr. MICHENER. Mr. Speaker, I ask that the resolution be reported.
The SPEAKER. The Clerk will report the resolution.
The Clerk read as follows:

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of H. R. 11725, a bill for the apportionment of Representatives in Congress. That after general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by those favoring and opposing the bill, the bill shall be read for amendment under the 5-minute rule. At the conclusion of the reading of the bill for amendment the committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. MICHENER. Mr. Speaker, may I inquire of the gentleman from Alabama [Mr. BANKHEAD] if time is desired on his side to debate the rule?
Mr. BANKHEAD. I will say to the gentleman from Michigan that, due to the importance of this subject, we think we shall be justified in asking for a longer time. I would like to have 30 minutes on this side.
Mr. MICHENER. I ask unanimous consent, Mr. Speaker, that the debate on the rule be limited to one hour, one-half of the time to be controlled——
The SPEAKER. The simpler way to do would be for the gentleman from Michigan to yield 30 minutes to the gentleman from Alabama.
Mr. SNELL. Mr. Speaker, we thought we could get unanimous consent to have the previous question ordered if we could get unanimous consent as to the time.
The SPEAKER. The gentleman from Michigan asks unanimous consent that the debate upon the resolution be limited to one hour, one-half to be controlled by himself and one-half by the gentleman from Alabama [Mr. BANKHEAD], at the conclusion of which the previous question shall be considered as ordered. Is there objection?
There was no objection.
The SPEAKER. The gentleman from Michigan is recognized.
Mr. MICHENER. Mr. Speaker, this resolution makes in order the bill H. R. 11725, commonly known as the reapportionment bill.
This is not a new matter. The subject has been constantly before the Congress for the last eight years. Congress up to this time has failed to perform its constitutional duty, and when I say "Congress" I use the term in the inclusive sense. There are two branches of Congress—the House and the Senate.
Much criticism, and just criticism, has been aimed at the Congress; but let us not forget that on January 19, 1921, the first Congress following the report to the Congress of the taking of the 1920 census, a reapportionment bill was passed, reapportioning the Members of the House at 435, but that bill failed in the Senate. It was never considered in the Senate. In each Congress since that time, with one exception, we have had before us a reapportionment bill. On several occasions those bills have been considered by the House, and on each occasion the bill has failed of enactment by the House.
I think we are all familiar with the constitutional mandate, and I shall not discuss that. I think every Member of this House is familiar with the terms of this bill. A very comprehensive report has been presented by the committee favoring the enactment of the bill, and a very comprehensive minority report has also been filed, so that there is to-day in the hands of each and every Member here a clear statement of the matter which this resolution brings before the House; a clear analysis of the bill. I am not going to enter upon any particular analysis of the bill at this time, because that will be taken care of when the bill is being considered.
Something has been said about this being the same bill that was before the Congress last spring, to be exact, on the 17th day of May, 1928. In the main, the report tells us that this is the same bill. However, important changes have been made. All the discretionary power lodged in the Secretary of Commerce in the previous bill has been eliminated, so to-day those who opposed the bill a year ago because they said it was delegating discretionary power have lost that ground of complaint. There is no discretion delegated. The things that are to be done by the Secretary of Commerce are entirely ministerial. He works out a mathematical problem according to directions and reports the result to Congress.
We were told when the bill was previously before the House that the Secretary would do the apportioning and that the House would not have the opportunity to pass upon what the Secretary did, because under the bill all that was necessary to be done was for the Secretary of Commerce to report to the Clerk of the House, and automatically it became the duty of the Clerk of the House to proceed to reapportion. That feature has been eliminated, so that to-day, as I understand this bill, the Secretary of Commerce will report to the House as instructed in the bill. After he has so reported no action can be taken by anyone until after the House has been in session at least from the first Monday in December to the 4th day of the following March.
Therefore the Secretary of Commerce is not reapportioning. He is merely presenting to the House some figures prepared according to the direction of the House, and action must be taken by the House either negatively or affirmatively. In other words, if the House, when it convenes in December, 1930, and has before it these figures, then approves of the figures and approves of what has been done by the Secretary of Commerce, it needs to do nothing further. On the other hand, if the House is not satisfied in any particular with what has been done by the Secretary of Commerce in accordance with the directions laid down in this bill or with the action taken by this Congress, then it will be the privilege of that Congress to provide reapportionment in its own way. So we are not laying down any hard and fast rule. We are not doing anything to deprive the Congress next convening after the taking of the census of its constitutional duty. We are simply providing that if future Congresses fail to do their constitutional duty in

reference to reapportionment, then the people of the country shall not be deprived of constitutional representation in Congress. We are providing for an emergency such as has existed since 1921.

As I view the situation, those are the principal changes in this bill, and I am not going to discuss the bill further at this time.

Mr. RANKIN. Will the gentleman yield?

Mr. MICHENER. Yes.

Mr. RANKIN. Will the gentleman please show the House where there are any such changes as that in this bill? Please tell us where there are any such changes in the bill.

Mr. MICHENER. If the Members of the House will read the bill they can get that information. This bill is a particularly comprehensive bill, because it embodies a new feature; that is, the bill which was before the House a year ago is included in the print. The parts to be eliminated are stricken out by lines and the new parts are inserted in italics, and if the gentleman will read the bill I am sure he will be able to arrive at the conclusion at which I have arrived.

Mr. RANKIN. That is what led me to believe the gentleman from Michigan had not read it.

Mr. MICHENER. Well, there may be a difference of interpretation, and if the gentleman is still in doubt I would suggest that he read the majority report.

Mr. RANKIN. Will the gentleman yield further?

Mr. MICHENER. I do not care to take any more time at this time, and I ask the gentleman from Alabama to use some of his time.

Mr. LOZIER. Will the gentleman yield for a question, in order to correct a statement he has made?

Mr. MICHENER. I do not yield further at this time.

Mr. BANKHEAD. Mr. Speaker, I yield myself 15 minutes. Mr. Speaker and gentlemen of the House, I should be very much gratified to have the indulgence and attention of the House for the few moments I shall occupy in undertaking to give what appears to me as being some sound reasons why this rule should not be adopted, and if the rule should be adopted, why the so-called reapportionment bill should not pass.

This is, by the very nature of the case, a profoundly important question not only to the people of the country but it is also a profoundly important question to the House of Representatives itself as a part of our Government. In the first place, gentlemen, I desire to call your attention to the fact that the Constitution itself, by the terms affecting this so-called duty of the House to reapportion after each decennial census, does not contain any mandatory duty imposed upon the Congress to perform a reapportionment by legislative act. I must confess that by inductive reasoning, possibly, and by construction, that imputation may be put upon the section of the Constitution covering this question; but conceding that there is a duty imposed upon the Congress of the United States to reapportion after each census, I respectfully submit to your candid judgment that upon a reading of this bill and upon a reading of the majority report supporting the bill this is not a reapportionment bill, although it so states in the title of the bill presented. If there is a duty imposed upon the Congress of the United States under the Constitution, if this mandate does exist, which the gentleman from Michigan says has been so long neglected, and for the neglect of which the Congress of the United States has been so severely criticized in the press and otherwise—if this mandate exists, then, by the very nature of the case the duty is imposed upon the Congress undertaking to act upon the matter of reapportionment to perform those duties itself, and by the very admissions of this report it is not a reapportionment bill but at most it only sets up a so-called mathematical thesis which the committee calls anticipatory legislation to become law in the event of the future contingency of neglect upon the part of a future Congress. There is the whole sum and substance of the purposes of this bill in letter and in spirit, and frankly so admitted by the proponents of this measure.

Now, if the Congress of the United States during the last eight years has legitimately laid itself liable to the earnest criticisms which have been hurled against it in the press, in the forum, and otherwise, then surely by waiting for only a period of two years longer it would not gain much in the condemnation of the country or lose much more of its respect.

I submit that is the thing which this Congress ought to do. We ought to refuse to adopt the pending resolution and let this matter go over until after the 1930 census has been taken; and then, with all the facts before us, as disclosed by that census, delivered to the Congress of the United States for its direction, courageously and intelligently and in a constitutional method, and without surrendering the dignity and the prerogatives and duties of the Congress to some subordinate in the Government, meet that duty at that time. [Applause.]

Mr. MICHENER. Will the gentleman yield?

Mr. BANKHEAD. I will say to the gentleman, I have only a limited time——

Mr. MICHENER. I was just going to ask the gentleman if he supported the reapportionment bill in 1921, immediately following the census, which did not delegate any authority?

Mr. BANKHEAD. If I did support it, I will say to the gentleman, I supported a bill that carried out the evident intention of the framers of the Constitution that the Congress of the United States should reapportion the country and not submit it to some Secretary of Commerce or some subordinate of that department. [Applause.]

Mr. RANKIN. Will the gentleman yield?

Mr. BANKHEAD. Yes.

Mr. RANKIN. The RECORD also shows that the gentleman from Michigan voted to recommit that bill.

Mr. MICHENER. No; it does not show anything of the kind.

Mr. RANKIN. I will read it to the gentleman in a moment.

Mr. BANKHEAD. I will say to the gentleman from Michigan [Mr. MICHENER], if we are to be bound by the legislative records of how we voted in this Congress, and if we are to be consistent in our votes, then there is no hope for the passage of this resolution at this time, because only last May this House, after a full and candid discussion of the question, in its deliberate judgment, referred it back to the Committee on the Census. [Applause.] And if you are appealing on the ground of consistency, if the gentleman thinks that is a conclusive argument, then I submit to all of those gentlemen who agreed with us at that time that this bill ought not to become a law; if you will stand firm to your then conviction and your then vote, we will send this bill back to the committee and wait until the next Congress, whose duty it is to act, to perform its constitutional duty.

Mr. RANKIN. Will the gentleman yield?

Mr. BANKHEAD. I yield to the gentleman for a brief question.

Mr. RANKIN. The CONGRESSIONAL RECORD of October 14, 1921, at page 6348, shows that the reapportionment bill was recommitted by vote of 146 yeas to 142 nays, and it shows that one of the yeas was the gentleman from Michigan [Mr. MICHENER].

Mr. BANKHEAD. Yes. "Oh, that mine adversary had written a book," I believe is an old quotation. [Laughter and applause.]

Now, gentlemen, there is another thing I desire to call to your attention. What is the real substance of this bill? Why, the proponents of it admit it has no binding force or effect whatever upon a subsequent Congress, either in morals or in law or in precedents. They will have to confess that when the Seventy-third Congress assembles for the discharge of its duties, they will have the constitutional, legal, and moral right, as well as the political right, if they see fit, to expunge this bill from the RECORD, to repeal it or to modify it in any way they see fit, to change the basis of representation if they see fit to do so, or in any other wise to meet the constitutional duty imposed upon that Congress to meet this situation.

So in its last anaylsis, by a candid consideration of the very effect of the bill in spirit and in essence, it is nothing more or less than a legislative gesture; that is all.

I now ask you, in all candor, why are you gentlemen here, whose consciences seem to have been so severely aroused by these criticisms that have been laid against you, why have you the right to assume that the Seventy-third Congress will not be as capable of handling this question as the Seventy-first Congress? Are you taking stock in the proposition that because of the fact we have failed to perform our duty, as you say, that we will judge our successors by our own code of morals and of action and anticipate, as the bill says it is anticipating, that they also will not perform their duty, and therefore in order to save our successors, these brethren of ours, in the future, whose reputations we are so anxious to conserve, we will throw around them this cloak of protection and fix up an automatic scheme, by which, if that Congress fails to perform its duties, then by these figures that are presented by this automatic arrangement provided in the bill, the Congress will ipso facto reapportion itself.

Is not that a fair statement of the real crux of this bill? And when any gentleman who proposes to support it comes on the floor to argue its merits, I now ask him to deny that as far as legal effect is concerned, if that is not exactly what is proposed in this bill?

Gentlemen, I am one of those who yet has some faith and some trust in the dignity of the Congress of the United States.

[Applause.] I have been one of those who for the last decade and more has observed with great solicitude the constant dispersion of the power of the House of Representatives, the constant and reiterated abdication of our real constitutional powers and duties to some subordinate function or functionary of the Government. If I had the time, I could call your attention to a great number of the phases of our constitutional duty which we have surrendered, which we have abdicated and passed on to bureaus and divisions.

But here, gentlemen, is a question involving the very essence, the very sacrament, if I may call it that, of the personnel of the House of Representatives, the popular branch of the Government of the United States, and we, the Representatives of the people of this country, by this character of legislation, are abjectly admitting to the people of the country whom we represent that the Congress itself is either too cowardly or too impotent or too incapable to meet its constitutional duty.

I think the time has come, gentlemen—as a matter of fact, has long since passed—when we ought to reflect a little upon this phase of our duty. The founders of this Government looking down the corridors of the future years with that prophetic wisdom of theirs, contemplating no doubt in imagination the character and ability of the people of this generation and the Representatives of the people here, saw no reason to doubt that we would be competent to deal with this question; otherwise, they themselves would have made some specific provision about an automatic reapportionment under the census; but they trusted us; the people of this country trust us, and if we have been negligent, gentlemen, in the performance of that duty for eight years let us candidly confess that omission of duty. Let us to go the people and say, "We have tried every two years to pass a reapportionment bill, but because of some character of opposition, because of some exigency of legislation, because of the real convictions of the Representatives themselves that the bills were not providently or wisely framed, for all these various reasons, although we have recognized either the direct or the imputed mandate of the Constitution, we have failed to perform that duty."

And when this matter comes up after the census, and not before, as contemplated by the Constitution, then let us resolve whatever may be the result, to take some action upon this proposal.

For these reasons, gentlemen, and many others which might be urged if I had time to do so, and which will be presented by others opposing the resolution, I am opposed to the adoption of the rule and shall vote against the pending bill. [Applause.]

Mr. MICHENER. Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. RAMSEYER].

Mr. RAMSEYER. Mr. Speaker, ladies and gentlemen of the House, I am not interested in the rule, but I take it for granted that you are going to adopt the rule and debate the question again. I am not interested in the mechanics of this bill. In fact, I have not had time to read the bill. I do not know what transpired in the Census Committee or the Rules Committee which has deemed it expedient or wise to call up a bill that was up for consideration last May.

However, you are going to consider it. I am opposed to the bill, on fundamental principles. As I told you last May when I spoke on the bill, I am not opposing the bill because I am afraid that it is going to reduce the representation of certain States, including my own.

In the short session of the Sixty-sixth Congress I supported and voted for the bill to fix the membership at 425, and under that bill Iowa would have lost one Member.

I stated last May that when the time comes in the next Congress to reapportion the membership of the House I should oppose a bill to increase the Members above the present representation—and that regardless of how it might affect my own State. [Applause.] I think the House is large enough now, and I think the country would disapprove any action of Congress fixing the size of this House above the present membership.

This bill is nothing more or less than a proposition to enact a law requiring somebody else to do in January, 1931, what will be the plain duty of the Senate and the House of Representatives of the Congress of the United States to do then. [Applause.]

You can not defend this proposition on any grounds except, first, that you are in favor of increasing bureaucracy—that is, let the Secretary of Commerce or somebody else do that which is the constitutional duty of Congress to do.

The second ground on which you can defend the bill is that you have lost faith in the intelligence, the patriotism, and the courage of Members of Congress [applause], to perform their constitutional duty when confronted with it. In order to get the proper perspective of this controversy that has been before Congress more or less intensely since 1921, let us look into the history of this legislation.

A bill during the short session of the Sixty-sixth Congress—January, 1921—passed this House fixing the membership at 435. That bill failed in the Senate. The House performed its full duty in that Congress. If there is any blame it is on the Senate. In the Sixty-seventh Congress when we had an overwhelming Republican majority there was a proposal to put through legislation to empower the governors, together with other State officers who were Republican, in a few States normally Democratic, to redistrict the States in case the legislatures, which were then Democratic, would not perform that duty, and the States being normally Democratic—it was feared that a failure to redistrict would result in electing all Congressmen at large and consequently a solid Democratic delegation from at least one of such States and possibly more. I know that controversy had a great deal to do with defeating the legislation in the Sixty-seventh Congress.

About that time no less a person than the then Secretary of Commerce, the now President elect, in some report—I do not know whether it emanated directly from him—I know it came from his office—made the statement that the census of 1920 was unfair to the rural population of the country. I am not going into the details of that report. That had a tendency to put a damper on this legislation. There was talk that a new census should be taken in 1925. Nothing was done along that line. At any rate, since that time this matter has drifted along until we have the present situation where gentlemen are fearful that Congress will not do its plain constitutional duty in the Seventy-first Congress, because their States are bound to lose in representation on the present basis of 435.

I am not claiming any virtues for myself that I am not willing to accord to my colleagues. I know in other States similar to my own the Members are ready when the time comes to vote for a reapportionment bill on a fair census which will be before us in January, 1931, which will not increase the membership above 435, but who will not vote for this bill to abase Congress in the estimation of the people. Let us face our duties like men when the time comes and not, as this bill proposes, "pass the buck" to somebody else. [Applause.]

Mr. BANKHEAD. Mr. Speaker, I yield the remainder of my time to the gentleman from Mississippi [Mr. RANKIN]. [Applause.]

The SPEAKER. The gentleman from Mississippi is recognized for 15 minutes.

Mr. RANKIN. Mr. Speaker, there has been a great deal of unjust criticism, inspired by certain Members of the House and the Senate, and directed at those of us who have opposed the bringing out and the passage of this bill.

I announced on this floor in 1921 that I was opposed to the reapportionment of the House of Representatives under the census of 1920. I gave as my reasons that that was not a just census. It was taken at a time when our population was very much disturbed, when America was just emerging from the World War, and when a great many of our soldiers were away from home, in the fields, and in camps. It was taken also at a time when great masses of our people were crowded into the industrial centers, working in the various enterprises that had grown up or expanded as a result of the Great War. It was taken in the wintertime, for the first time in the history of this country, in the dead of winter, when the Northern States were invariably wrapped in a sheet of snow, and during the rainy season in the South, when it was practically impossible to go out into the rural sections and get a just census of the farming population. It was taken while everything was at the peak of the high prices. Men in the fields, in every agricultural State of the Union, found it impossible to secure people to go out in the rural sections and take the census for the small amount of money then allowed for such work.

That census has never been approved by the Congress. Why do these men who criticize us, why do they not bring that census before the Congress and get it approved? They know they could not do it.

They say there is a constitutional mandate to take the census every 10 years. That is true, but it is not mandatory that we reapportion the House after the taking of each census.

We did a great many unusual things during the war. We drafted our young men and sent them to foreign fields; we took over our public utilities; we put on wheatless days and meatless meals and lightless nights; limited the amount of sugar a man could put into his coffee; and changed the time of day, as a result of the World War; and all this without any great hue and cry; but when it comes to failing to reapportion the House on an unjust and incomplete census taken under

those disturbed conditions we are criticized by Members who think that they will gain some political or personal advantage by having us reapportion under that census.

I have said from the beginning, and I say it to-day—I have said it every time this measure has been before the House—that we are attempting to get a just, full, and complete census taken in 1930; and when we do I am in favor, and those on my side of the House are in favor, of reapportioning the Congress under that census regardless of the consequences.

In 1921 we brought in a bill, after we had toiled and worked and tried to iron out our differences, that would have changed the membership of the House from 435 to 460. Personally, I was not in favor of increasing the number in the House, and I am not now. But I supported that measure in order to get the proposition disposed of. After debating it all day it was recommitted to the committee by a majority of four votes. I was one of the men who voted against recommitting it, but the very gentlemen who have criticized us from that day to this voted to recommit and thereby killed the bill.

This bill does not reapportion at all. It is the most ignominious capitulation I have ever seen the House attempt to make, surrendering our prerogative of reapportioning the membership of the House and abdicating it to some clerk down in the Census Bureau. That is what you are doing. Not only that, but you are manifesting a most flagrant lack of confidence in the Hoover administration before it is even sworn into office. You are attempting to pass a bill to reapportion the House elected in 1932. This is not a reapportionment bill. It is an abdication bill. It is a bill to delegate the right to reapportion to the Secretary of Commerce or to the clerks down in the Bureau of the Census.

Mr. SIMMONS. Mr. Speaker, will the gentleman yield?

Mr. RANKIN. Yes.

Mr. SIMMONS. Does the gentleman know who that Secretary of Commerce might be who will act under this bill?

Mr. RANKIN. No.

Mr. SIMMONS. We are designating it not only to an executive officer but to an executive officer that is now unknown.

Mr. RANKIN. Certainly; and those clerks down there in the department have already tried the case in advance. If I had no other reason for opposing this bill, this forecast of the population of 1930 which they have made would be sufficient to convince me of the inadvisability of it. To show you that they have tried this case in advance, they have made one of their guesses, and one of the things the country is suffering from to-day is bureaucratic guesses. The Census Bureau now undertakes to guess what the population will be in 1930, and I made them admit—and it is in the hearings—that they took it for granted that the same disturbed conditions that apparently shifted the population between 1910 and 1920 would continue until 1930. They think that this disturbed condition, this drift, will continue in that direction until 1930. They do not seem to know that the war is over.

The gentleman from Michigan attempts to leave the impression that we have eliminated the evils of this bill. They have just denatured it in the mildest way. All of the evils of the bill are still there. If they have done anything, they have made it worse. I want you to read the bill. Gentlemen, do not go home and tell your constituents that you voted for this monstrosity and did not know what was in it. The gentleman from Michigan freely admits by his argument that he does not know what is in it, because the changes he indicated were not made at all, I submit, with all due deference to the gentleman from Michigan [Mr. MICHENER], of whom I am very fond.

Suppose you pass this bill. I want to show you where you forever shut the door in your faces. Suppose that in 1932 the conditions are such that by a small change, either a reduction or an increase or even leaving the House at its present membership, you should attempt to pass a reapportionment bill. All they would have to do at the other end of the Capitol would be to pigeonhole it and you would have no voice whatever in the reapportionment of the House. The President could veto it, or the Senate could pigeonhole it or defeat it, and the House would be absolutely powerless to recover their prerogative of reapportioning the House of Representatives.

Mr. BURTNESS. If the gentleman will yield, further than that might not the situation be even this: That the House committee might recommend a bill, put it on the calendar, and the Rules Committee by a majority of only one might prevent its consideration on the floor of the House?

Mr. RANKIN. Certainly.

Mr. BURTNESS. Are not they yielding the entire power of the House to one man in certain cases?

Mr. JOHNSON of Washington. Can you not say that of any piece of legislation?

Mr. RANKIN. And the gentleman from Washington remembers that Mr. Campbell, of Kansas, chairman of the Rules Committee, carried a rule in his pocket and would not even let it be taken up in the House, thereby killing the bill.

If a majority of the Senate should decide that we did not know what we were doing, they could kill the bill and we would have nothing to do with the reapportioning of the House, but some clerk in the Census Bureau would do it instead. This bill does not propose a reapportionment under the census of 1930.

It is just a legislative manifestation of the lack of confidence in the Hoover administration, and by your vote you will so declare if you support it.

We are demanding that a just, full, and complete census be taken in 1930. We are going to see that it is taken. We are going to do that in order that the agricultural States, composed as a rule of old-line Americans, those men and women whose forebears wrote the Constitution, whose fathers fought the War of the Revolution and the War of 1812, whose fathers and grandfathers fought both sides of the War between the States—we want to see that those old-line Americans are accounted for; that their States shall not be torn asunder; that their representation shall not be reduced by a census that is not full and complete and that does not account for the entire population.

Let me repeat that when the census is properly taken in 1930 we are in favor of reapportioning the House according to that census. But, in the name of common sense, let us retain the few prerogatives we have left, let us show the American people that we have the courage to do the best we can under these unusual conditions, and that we do not propose to surrender the prerogative which they, by their votes, have placed in our hands to control the apportionment of the House of Representatives as handed down to us by the framers of the Constitution. [Applause.]

Mr. Speaker, I yield back the remainder of my time.

The SPEAKER pro tempore. The gentleman yields back two minutes.

Mr. MICHENER. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois [Mr. WILLIAMS].

Mr. WILLIAMS of Illinois. Mr. Speaker, the gentleman from Mississippi [Mr. RANKIN] and also the gentleman from Alabama [Mr. BANKHEAD] made the statement that the proposed bill is not an apportionment bill. I think that is true, speaking generally. It is not a bill undertaking any particular apportionment, even the apportionment following the census of 1930. If the bill is enacted into law we shall have a general statute on the Federal statute books that will make certain an apportionment of the Representatives in the House of Representatives following each decennial census. It in no way abridges the right or the power of Congress, following the announcement of the result of a census as provided by law, from passing any kind of an apportionment bill which the Congress thinks proper. It does provide, however, that if such apportionment is not made by Congress, the second succeeding Congress following the one which convenes on the first Monday of December after the census figures are announced and certified to the House shall be elected on a reapportionment made in the manner provided in the bill; that is, a House of 435 Members, the number of Members from each State being determined by the actual enumeration as certified by the Census Bureau.

I think we all agree that the Constitution contemplates the reapportionment of the House of Representatives in this Chamber following each decennial census. The fact that there was a compromise made by the fathers in writing the Constitution, wherein each of the States, the small as well as the large, was to have equal representation in another body, made it manifestly right and fair that in this, the popular branch of the Government, representation should be based upon the actual population of the various States. It is a matter of supreme importance to the membership of this House and to the people of the country in choosing their Representatives that there should be an equitable and fair apportionment of these Representatives according to population. But the matter goes much farther than that; it goes into the Electoral College; and when any State, under an existing apportionment, is entitled to more votes in the Electoral College if an apportionment were made in conformity with the Constitution, an injustice is being done that State by a failure to make such reapportionment.

Now, what objection can be made to having a general law on the statute books of this country that will guarantee to the people of the country and to the various States of the Union an apportionment each 10 years in case Congress for any reason fails or neglects to make an apportionment as provided by law and the Constitution? If this bill were enacted into law it would apply to the census of 1940 and to the census of 1950

and any succeeding census unless the law was repealed or the Congress, following the taking of such census, performed its constitutional duty and made an apportionment.

I think we all recognize the fact that the sentiment of the American people is overwhelmingly against the proposition that would increase the membership of this House above the 435 that it now has. I have consistently supported the proposition to apportion the House under the census of 1920. I voted for the bill of 1921 and voted to amend that bill by reducing the membership from 483, as provided in the bill, to 435 Members. As stated by the gentleman from Michigan, the House voted on that occasion and passed the bill by a large majority. On the occasion of the next attempt to apportion, when the committee reported a bill for 460 Members, I voted to reduce the number to 435; but when the House failed to adopt that amendment I was one of those who voted against the recommittal of the bill, because I wanted to see a reapportionment.

I do not believe that this House is justly subject to the very severe criticism which it has received throughout the country, because within less than two months after the announcement of the census of 1920 it passed a reapportionment bill and sent it to the Senate. But we must all admit and recognize the situation that exists—that for one cause or another eight years have gone by without action, and we have had two presidential elections on the present apportionment, an apportionment manifestly unfair to many of the States.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. WILLIAMS of Illinois. Yes.

Mr. RANKIN. Was the gentleman dissatisfied with the vote of the Electoral College in the last two elections? [Laughter.]

Mr. WILLIAMS of Illinois. I am not dissatisfied, but I think each State should have a vote in the Electoral College according to its population.

Mr. CHINDBLOM. Of course the majority would have been bigger if we had had a reapportionment. [Laughter.]

Mr. WILLIAMS of Illinois. I do not see how you could figure out a reapportionment in this House that would favor the Democratic Party. If the gentleman has such information, he can enlighten the House in the course of the debate.

I voted against a bill similar to this when this matter was before the House previously, because I insisted that we ought to apportion under the census of 1920, so that it would have been in time for the election of 1928. At this time we all know it is not practicable to undertake to apportion under the census of 1920. The enactment of this law simply assures to the country and guarantees to the people of the various States that if Congress for any reason fails to pass a reapportionment act after the census of 1930 the second succeeding Congress elected thereafter will be elected on an automatic ascertainment based on the figures as announced by the Secretary of Commerce. We invest the Secretary of Commerce with no discretion in this matter. The terms of the bill determine what his duties are. They are purely ministerial and can not in any way be declared to affect unfairly the people of any State in the Union.

As I said, I voted against the bill a year ago for the reason that I felt we ought not to apportion under the census of 1920, but that not being possible any longer I am quite strongly convinced that it is the duty of this Congress to enact this legislation and to make certain that in the future we will not have a situation such as we have witnessed in this country during the past eight years. That is all this bill does. It enacts a general law which assures an equitable and fair apportionment following each census. [Applause.]

The SPEAKER. The time of the gentleman from Illinois has expired.

Mr. MICHENER. Mr. Speaker, in concluding let me correct a statement which I possibly made, because if there is one thing I always want to do it is to state things to the House as they are. I did vote on October 14, 1921, to recommit a reapportionment bill, because that bill carried 460 Members. I, together with a majority of the Members of this House, favored keeping the number at 435, and we did send that bill back to the committee, with the understanding that the committee must bring back a bill containing 435. The matter to which I referred a few minutes ago was the roll call on January 19, 1921, before our good friend from Mississippi came to Congress. As previously stated, the House of Representatives did pass a reapportionment bill in 1921 fixing the number of Members at 435, and I voted for that bill, and that was the bill that failed in the Senate.

I have always favored reapportionment and I have always favored reapportionment at 435. I honestly and sincerely believe that it is the judgment, as has heretofore been expressed by a large majority of this House, that the number should not be increased, and I believe further that it is the desire and it is the will of the American people to-day that we should not add to our numbers.

I believe that there would be little opposition to reapportionment to-day if we would provide that no State in the Union should lose any representation which it now has. I want to call the attention of the House to the fact that it makes no difference whether we have 300 or 3,000 Members in Congress, so far as the weight of any vote of any State is concerned, if we are operating under a constitutional apportionment.

The gentleman from Alabama [Mr. BANKHEAD] pictured the old framers of the Constitution looking down through the corridors of time, as he said, and blushing with shame to think of the powers we were surrendering. Ah, Mr. BANKHEAD, what would those old fathers think to-day—those men who were so imbued with the idea of representative government—of a Congress of the United States which would defy the very intent if not the mandate of the Constitution and prevent a reapportionment that gives the very representation which those men thought they were guaranteeing to posterity?

Mr. BANKHEAD. As the gentleman has asked me the question will he permit me to answer it?

Mr. MICHENER. Under the 1920 census there are to-day more than 13,000,000 people in this country denied the representation which those old fathers intended they should have, and if this matter goes along until 1930 and there is no reapportionment, more than 31,000,000 people will be denied the representation which those same old patriotic, farseeing fathers intended they should have.

Mr. BANKHEAD. Will the gentleman yield?

Mr. MICHENER. Not now. It has been further suggested here that we are taking away from the Seventy-first Congress a duty which the Constitution intended they should perform. I say to you, Mr. Speaker, that this bill is so worded that there is no question but that the Seventy-first Congress has the opportunity of passing on the question of reapportionment. They may reapportion in such manner as they see fit, but if they do not reapportion and we find ourselves in the condition in which we have found ourselves for the last eight years, then, Mr. Speaker, there is not any question but that a representative Congress will represent the American people until further action is taken by Congress.

Mr. BANKHEAD. Will the gentleman now yield?

Mr. MICHENER. I will.

Mr. BANKHEAD. The gentleman by his statement in effect admits that if it had not been for the absolutely arbitrary attitude assumed by himself and some other gentlemen who thought like him that we would have had a reapportionment bill in 1921 based upon a representation of 460 Members. Is not that true, and does it not follow that because of that absolutely arbitrary attitude—and I do not find anything sacrosanct in numbers—if it had not been the attitude that 435 was the absolute limit, we would long since have reapportioned the House and then we would have had the constitutional mandate carried into effect?

Mr. MICHENER. I think I stated a while ago that that was the crux of the trouble, call it arbitrary or anything you want. There are those people in the House who will reapportion to-day at any number, regardless of what anyone else wants, if they may save the present representation of their States.

It is hard for Members to vote for reapportionment which will result in some Members losing their seats in this body. It is possibly harder for some Members to vote for reapportionment when the particular seat which he occupies may be the one affected. To reapportion under the 1930 census and save the seats of sitting Members will require a House with a membership of not less than 540—more than 100 additional Members. If our population continues to increase, there must be a stop somewhere, and I think all are agreed that the House is already unwieldy, and the country is more interested in quality than quantity of its Representatives in the lower House.

The rule which we are now considering permits three hours general debate on the bill, with full opportunity to amend under the 5-minute rule, and surely there are none who will oppose even considering the question of reapportionment.

The SPEAKER. The time of the gentleman from Michigan has expired.

Mr. BANKHEAD. Mr. Speaker, I yield back the remaining two minutes of time.

The SPEAKER. Under the agreement, the previous question is ordered. The question is on agreeing to the resolution.

The resolution was agreed to.

Mr. FENN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 11725) for the apportionment of Representatives in Congress, and pending that motion I ask unanimous consent that the time be equally

divided and controlled, one-half by the gentleman from Mississippi [Mr. RANKIN] and one-half by myself.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 11725, with Mr. CHINDBLOM in the chair.

The Clerk read the title of the bill.

Mr. FENN. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

Mr. RANKIN. Mr. Chairman, reserving the right to object, I shall not object if the gentleman will agree for the bill to be inserted in the RECORD at this point.

Mr. FENN. I will agree to that and amend my request accordingly.

The CHAIRMAN. The gentleman from Connecticut asks unanimous consent that the first reading of the bill be dispensed with and that the bill in its amended form be inserted in the RECORD at this point. Is there objection?

Mr. RANKIN. Mr. Chairman, a parliamentary inquiry. Will this show the changes made in the bill?

The CHAIRMAN. Not in the way in which the Chair put the request.

Mr. RANKIN. My understanding was that it should go in with the amendments shown.

The CHAIRMAN. Without objection, the Chair will put the request again. The gentleman from Connecticut asks unanimous consent that the first reading of the bill be dispensed with and that the bill be printed in the RECORD at this point with amendments. Is there objection?

There was no objection.

The bill is as follows:

[Omit the part in black brackets and insert the part printed in italic]

A bill (H. R. 11725) for the apportionment of Representatives in Congress

Be it enacted, etc., That [as soon as practicable after the fifteenth and each subsequent decennial census,] *on the first day of the second regular session of the Seventy-first Congress and of each fifth Congress thereafter,* the Secretary of Commerce shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under [such census] *the fifteenth and each subsequent decennial census of the population,* and the number of Representatives to which each State would be entitled under an apportionment of 435 Representatives made in the following manner: By apportioning one Representative to each State (as required by the Constitution) and by apportioning the remainder of the 435 Representatives among the several States according to their respective numbers as shown by such census, by the method known as the method of major fractions.

SEC. 2. (a) If the Congress to which the statement required by section 1 is transmitted, fails to enact a law apportioning the Representatives among the several States, then each State shall be entitled, in the second succeeding Congress and in each Congress thereafter until the taking effect of a reapportionment on the basis of the next decennial census, to the number of Representatives shown in the statement; and it shall be the duty of the Clerk of the last House of Representatives forthwith to send to the executive of each State a certificate of the number of Representatives to which such State is entitled under this section. In case of a vacancy in the office of Clerk, or of his absence or inability to discharge this duty, then such duty shall devolve upon the officer who, under section 32 or 33 of the Revised Statutes, is charged with the preparation of the roll of Representatives elect.

(b) This section shall have no force and effect in respect of the apportionment to be made under any decennial census unless the statement required by section 1 in respect of such census is transmitted to the Congress [on or before the first day of the first regular session which begins after the taking of such census has begun] *at the time prescribed in section 1.*

SEC. 3. In each State entitled under this act to more than one Representative, the Representatives to which such State may be entitled in the Seventy-third and each subsequent Congress shall be elected by districts equal in number to the number of Representatives to which such State may be entitled in Congress, no one district electing more than one Representative. Each such district shall be composed of contiguous and compact territory and contain as nearly as practicable the same number of individuals.

SEC. 4. In the election of Representatives to the Seventy-third or any subsequent Congress in any State which under the apportionment provided for in section 2 of this act is given an increased number of Representatives, the additional Representative or Representatives apportioned to such State shall be elected by the State at large, and the other Representatives to which the State is entitled shall be elected as theretofore, until such State is redistricted in the manner provided by the laws thereof, and in accordance with the provisions of section 3 of this act.

SEC. 5. In the election of Representatives to the Seventy-third or any subsequent Congress in any State which under the apportionment provided for in section 2 of this act is given a decreased number of Representatives, the whole number of Representatives to which such State is entitled shall be elected by the State at large until such State is redistricted in the manner provided by the laws thereof, and in accordance with the provisions of section 3 of this act.

[SEC. 6. Candidates for Representatives at large shall be nominated, unless the State concerned shall provide otherwise, in the same manner in which candidates for governor in that State are nominated.]

Mr. RANKIN. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. THURSTON].

Mr. THURSTON. Mr. Chairman, I ask unanimous consent to revise and extend my remarks in the RECORD and to include therein two tables, one prepared by the Bureau of the Census and one by the Library.

The CHAIRMAN. The gentleman from Iowa asks unanimous consent to revise and extend his remarks in the RECORD by including therein two tables, one prepared by the Bureau of the Census and one by the Congressional Library. Is there objection?

There was no objection.

Mr. THURSTON. Mr. Chairman, I doubt if it will be necessary to go into the consideration of the plans suggested in allocating the Members of the Congress, whether we use major fractions or equal proportion, because it appears to me that there are some insurmountable objections that will preclude us from ever reaching a consideration of either of those plans. I shall direct my remarks principally to two things, first, the relation to the delegation of powers that have from time to time been made by Congress to different executive branches, and doubtless all of the Members are familiar with the long line of decisions that have grown up in relation to the delegation of necessary powers incident to the proper functioning of some branch of the executive part of the Government, and one of the first contests in that respect was in relation to the power the Congress extended when it created the Interstate Commerce Commission, giving that organization control over investigation and later the promulgation of freight and passenger rates. Of course, it is apparent that the Congress would not have the time to enact thousands upon thousands of rates, and the same thought prevailed when the Congress enacted the last tariff measure, vesting certain discretion in the executive branch in relation to the exaction of duties upon imports. But I call attention to this distinction: Thus far the delegation of that power has been confined solely to questions affecting economics or commerce or trade, and the Congress never once delegated a purely political power. This afternoon we are dealing with a measure that proposes to delegate a political power, and when we stop to consider that this body is only called upon once during every five Congresses to devote its attention to the apportionment of the Congress, this act on our part then does not come within the phrase so frequently mentioned by the Supreme Court in interpreting the delegation of powers as being "necessary," and running all through that line of decisions you find the term "necessary" used, because the Congress should not be called upon to deal with minute details, and, therefore, the courts have sustained the delegation of these powers.

But what contention can be made upon the floor of this House that this Congress does not have the time to devote its attention to a determination of this question, seeks to remove a plain constitutional duty by referring it to the executive branch of the Government? The other matter I wish to deal with, and I believe it is one worthy of consideration; I would like to have you all consider section 1 of this bill which purports to set up a rule whereby apportionment shall be made by the executive branch of the Government. If you have the committee report, on page 2 you will there find the fourteenth amendment to the Constitution of the United States, and it will be noted that this bill proposes to take part of the constitutional duties in relation to this subject and vest those powers in the executive branch and makes no mention of the entire or whole constitutional duty in that respect, and I must say this will be of interest when we remember that under section 2 of this amendment a provision is made here in regard to the denial or abridgement of rights of any citizen to vote; and, if this bill passes, can we, the Congress, adopt half or some portion of the method provided here in the Constitution upon this subject and permit the executive branch of the Government to retain a portion, or must all of this measure stand or fall together? I insist that this bill only makes provision for a portion of the constitutional duties that are placed upon the Congress, and if

an amendment were offered upon the floor of this House to include the rest of the necessary matter upon the subject, then what would be the situation? The Secretary of Commerce or some subordinate would then be empowered, according to this bill, with the right to have hearings as to whether the rights of a citizen in some certain State have been abridged or diminished or denied, and then application could be made not only by one or two States but six or eight or a dozen, possibly, and I believe we would find if this power was so delegated or attempted to be delegated, that there would be many demands from different portions of the country claiming that the rights of their citizens had been abridged and they desired to make a showing in support of their contention, and then it would be the plain duty of this administrative official to hear and determine a matter that would be thus submitted, and then where would the contention of our friends stand who say that there would be no discretion whatever vested in the administrative official? Because this official would be obliged to deny or affirm; and if that official would fail to act after an application was made, then a citizen acting for some State would have the right to call upon the third branch of our Government, the judicial branch, so that the courts would determine whether or not this was a ministerial act and therefore it was incumbent upon this official to comply with the plain mandate of the fourteenth amendment.

Mr. STOBBS. The gentleman is assuming in his argument that the Secretary of Commerce would be called upon to exercise discretion in determining the fact of a violation of the provisions of the fourteenth amendment. Is that right?

Mr. THURSTON. Yes, sir.

Mr. STOBBS. Is there any machinery set up now providing for a violation of the fourteenth amendment?

Mr. THURSTON. No, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. THURSTON. I ask for one additional minute.

Mr. RANKIN. I yield the gentleman one minute.

Mr. STOBBS. Is not this perfectly true, that if there was any machinery set up by Congress to provide for a violation of the fourteenth amendment and it had been determined that the rights of any citizens had been denied, then after the decision of the department by this machinery set up to provide for a violation of the fourteenth amendment, all the Secretary of Commerce will be called upon to do under this bill is to determine what citizens, excluding Indians, have had their rights denied by such machinery, and in respect to such determination the Secretary of Commerce under this bill will be performing a purely administrative duty?

Mr. THURSTON. The Secretary of Commerce would be obliged to exercise discretionary powers in complying with the provisions of the Constitution.

The bill under consideration provides that if the Seventy-first Congress and each fifth Congress that assembles thereafter fails to enact a reapportionment law this measure will stand as a perpetual delegation of not only the legislative power that is vested in the Congress under the Constitution but also would delegate the constitutional function of determining the membership of the House of Representatives by one of the coordinate branches of the Government; and even if there was warrant for avoiding this duty it is hardly conceivable that the legislative branch of the Government desires to make a further surrender of prerogatives that were plainly intended by the framers of the Constitution that it should exercise.

Following the preamble to the Constitution, section 1, Article I, provides that—

> All legislative powers herein granted shall be vested in a Congress, which shall be composed of a Senate and House of Representatives, thus according first place in that great instrument to the legislative branch of the Government—

And section 2, Article I, of that instrument makes provision for the House of Representatives, thus according first place to the most numerous branch of the National Legislature, thereby indicating that the framers of the Constitution gave the highest regard to the function devolving upon this body, who bear the same name as the form of our Government, so that a Representative in the Congress of the United States holds one of the high offices in this Government, which is representative in form.

Because of the great industrial, agricultural, and financial expansion in our country, it was manifestly apparent that the Congress could not legislate as to every detail that trade, commerce, or industry might require, and that it was necessary for the Congress to pass laws delegating ministerial duties to the executive branch of the Government, so when the interstate commerce act was passed, whereby the Government was to exercise control over the railroads, and in so far as possible require that fair and equitable freight and passenger rates should be made, thus entailing the investigation and promulgation of thousands upon thousands of rates and regulations therefor, the necessity for a broad construction of delegated power became apparent, and economic necessity warranted this broad construction.

Substantially the same situation but in a lesser degree arose when the last tariff act was passed in relation to the flexible provision in that act which authorized the President to change the rate of duty upon imports. And there is a long line of decisions sustaining the right of the Congress in this respect, but all of the decisions coming within the rule mentioned place stress upon the necessary delegation of ministerial functions, because of the manifold and multiplicity of acts that would arise under the rate structure or tariff schedules that administrative officials would be obliged to encounter; however, all of the decisions mentioned delegating power deal with economic, commercial, or trade activities, whereas the delegation proposed in the instant bill is wholly of a political character, and I would urge any Member to submit authority to the House which will point out the justification for the delegation or surrender of a political power that is vested in the Congress.

I submit that the distinction between the delegation of nonpolitical and political power is one that should challenge the sober thought of students of our form of government, which is representative in form, as well as the membership of the Congress of the United States.

Furthermore, when construing the Constitution, we are always admonished to consider the intent the framers had when drafting this great instrument, and when they placed the duty upon each fifth Congress to make an apportionment of the membership of the House of Representatives, it is inconceivable to believe that they felt that this act to be discharged by the Congress but once every 10 years would become so onerous and burdensome that this simple duty should not be exercised after the decennial enumeration of the population had been determined, so the delegation of this duty can hardly come within the necessary class that is so frequently mentioned in the line of cases justifying a delegation of legislative power.

A fair construction of the Constitution upon this subject warrants the assertion that powers, and particularly political powers, which the Congress can readily and expeditiously exercise, does not warrant a delegation of such powers to another branch of the Government.

If a measure of this character is passed, and after the results of the next decennial census are available, and the Congress desires to amend or change the formula set out in the bill, or make any other change, and a measure providing for the change would pass the Congress by a majority, and would not meet with the approval of the Executive, a two-thirds majority of each branch of the Congress would be required to effect the change desired, so by passing an anticipatory measure of this character the Congress would be surrendering that portion of its strength that lies between a majority and a two-thirds majority. But even so the rule sought to be established in this bill in the respect mentioned is not so important as the situation that might arise and be referred to the third coordinate branch of the Government.

The first section of the bill under consideration apparently intends to fix the rule by which the reapportionment shall be made and also provides a certain formula therefor, but it will be noted that in attempting to state the constitutional rule that will prevail in making the reapportionment, no reference is made to the second paragraph of section 2 of the fourteenth amendment to the Constitution, and for purpose of reference I will read all of section 2 of said amendment:

> Amendment 14, section 2:
>
> Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State, being 21 years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the whole number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

A careful reading of this section at once brings out the thought that a discretion is vested in the branch of Government that would deny or affirm the right to reduce the membership in the Congress from a State, on account of a noncompliance with the provisions of the major portion of the section just read, and I invite the Members to compare this bill with the fourteenth amendment, which is set out on page 2 of committee hearings, and is in convenient form to consult here.

Manifestly, it is apparent that the bill fails to include the delegation of an important function to be discharged by the Secretary of Commerce.

After the taking of the census, and a determination of the population has been made, and before the certification by the Secretary of Commerce to the Congress, an action of mandamus was commenced by a citizen against the Secretary of Commerce, to require such official to reduce the membership in the Congress from a certain State, the court would first be obliged to determine if the official mentioned was exercising ministerial powers, and if he was so acting, then his acts would have to be based upon the provisions of the second section of the fourteenth amendment, so a chain of incidents might follow that no one here could anticipate or measure.

For instance, on the other hand, if it should be found that such action upon the part of the Secretary of Commerce would involve discretionary action, then the end sought by this legislation would prove to be a nullity, even though present expediency might be satisfied.

Again, we might consider another aspect of this measure in relation to whether or not a discretion is vested in the Secretary of Commerce. For instance, if the official mentioned allocated the membership of the Congress among the respective States, and subsequently an error in such competition should be disclosed or claimed, or if such official knowingly or otherwise acted in violation of the formula prescribed, what recourse would be available to a State that claimed it had not received the number of Representatives to which it was entitled?

Irrespective of an injustice in the allocation of such membership by design or otherwise, would a State be obliged to accept its representation in the Congress on the basis indicated by the executive branch of the Government? Or would a citizen of that State be entitled to maintain an action of mandamus to correct the act of the administrative official, and if such an action would lie, then in the final analysis, the judicial branch of the Government would be assisting or determining matters in relation to the membership of the legislative branch of the Government.

Such a judicial determination might be more far-reaching in its political effect than an adjudication correcting the application of some rule in relation to freight rates or tariff schedules.

So the question involved here, largely, is whether the Congress either morally or legally has the right to relieve itself of a plain, unquestioned, constitutional duty.

A distinguished Member of this body recently wrote a constitutional treatise entitled "The Vanquishing Rights of the States," so it might not be out of place here and now to refer to the constant surrender of legislative powers by the Congress.

The constant trend of legislation in the Congress is to divest legislative control and vest increasing powers in the executive branch of the Government, and measures like the one under consideration will tend to confirm the opinion of those who feel that a legislative body is an unnecessary adjunct of government, and that, after all, a monarchy serves the people best.

A history of England portrays "a thousand years of strife to win rights for the people from the Crown or the autocracy," and in a sense we inherited that contest; and when our Constitution was adopted we thought we had won a permanent victory; and so we had; but the diminishing powers of the legislative branch of our Government might well challenge the attention of those in favor of maintaining our representative form of government.

It might be well to recall that after a complete draft of the Constitution had been presented to the convention, the presiding officer of that body, General Washington, who had listened to all of the debates leading up to the completion, made only one suggestion or request to the body of men composing the convention, and that was "to change the basis of representation from 1 Representative to each 40,000 persons to 1 Representative for each 30,000 persons," thereby expressing his judgment as to a limitation upon the numbers which a Representative would represent in the House; and the change suggested was made.

Alexander Hamilton, one of the great expounders of and contenders for a strong central government, likewise insisted that the Representatives should be greater in number than proposed in the original draft of the Constitution.

So I am leading up to the question as to the number of Representatives that is proposed in the measure under consideration; and if this measure becomes a law, it might take a two-thirds vote in each branch of the Congress to increase or diminish the membership in the House; and with the contentions made by those who are opposed to a House composed of 435 Members or a greater number, it might be well to submit a statement prepared by the legislative service of the Library of Congress giving the membership in the higher and lower branches of the national legislatures in Great Britain, Canada, France, Germany, Italy, Japan, and the United States; and this table also shows the population, area, and estimated wealth of each of the nations mentioned.

A Member in the United States Congress represents two to six times as many persons, fifteen to twenty times as much territory, and three to twenty times the wealth as a member in the lower house of the other nations mentioned above:

Membership of parliament in certain foreign countries, in relation to population, area, and estimated wealth, compared with the same figures for the United States

Country	Membership of—		Population	Area (square miles)	Estimated national wealth [1]		Ratio represented by each member of lower house in relation to total		
	Higher house	Lower house			Year	Amount	Population	Area	National wealth
Great Britain and Northern Ireland	[2] 730	[3] 815	[4] 42,919,710	89,041	1922	$120,000,000,000	69,788	145	$195,121,951
Canada	[5] 96	[6] 245	[7] 9,364,200	[8] 3,729,665	1921	22,195,000,000	38,221	15,214	90,519,837
France	[9] 314	[10] 580	[11] 39,209,518	212,659	1925	60,000,000,000	67,603	367	103,448,276
Germany	[12] 68	[13] 493	[14] 62,539,098	182,257	1924	[15] 40,000,000,000	126,854	368	81,135,903
Italy	[16] 387	[17] 560	[18] 42,115,606	119,624	1922	35,000,000,000	75,206	214	62,500,000
Japan	[19] 409	[20] 464	[21] 61,081,954	[22] 260,707	1922	22,500,000,000	131,642	562	48,491,379
United States	96	435	[23] 117,136,000	[24] 3,627,557	1922	320,804,000,000	269,278	8,339	737,480,460

[1] None of the data relative to national wealth is official. These estimates are mostly by bankers or statisticians. (World Almanac, 1927, p. 297.)
[2] Average membership. This is the voting strength. The full house would consist of about 740 members.
[3] Including 13 members from Northern Ireland. Number reduced to that figure in 1922. From 1885 to 1917 membership was 670. From 1918 to 1921, under the "Representation of the people act, 1918," membership was 707.
[4] On June 19, 1921.
[5] Total number may not exceed 104.
[6] Fifteenth Parliament, elected on Oct. 29, 1925, under the "Representation act, 1924." (Canadian Parliamentary Guide, 1926, p. 113.)
[7] Estimated population in 1925.
[8] The area of the Dominion, as revised on the basis of the results of recent explorations in the north, is 3,797,123 square miles. (Canada Year Book, 1925, pp. 1, 813.)
[9] Elected Jan. 11, 1924.
[10] Elected May 11, 1924.
[11] Census of 1921.
[12] In 1926.
[13] Elected Dec. 7, 1924.
[14] On June 16, 1925.
[15] According to figures published by Doctor Luther, German Finance Minister. (World Almanac, 1927, p. 297.)
[16] On Jan. 1, 1924. The number of senators is unlimited. Senators are appointed by the King for life.
[17] Elected in April, 1924. Prior to electoral law of Feb. 15, 1925, deputies numbered 535.
[18] Estimated on Jan. 1, 1926. Census of Dec. 1, 1921, returned 38,755,576 inhabitants.
[19] On Dec. 31, 1925. Members of the imperial family are ex officio members of the House of Peers (senate). A large percentage of the membership of the House of Peers consists of members appointed by the Emperor. (Résumé statistique de l'Empire du Japon, 1926, p. 145.)
[20] Elected May 31, 1925; number unchanged from 1924. (Résumé statistique de l'Empire du Japon, 1926, p. 145.)
[21] Estimated Dec. 31, 1924. The census of population of the mainland on Oct. 10, 1925, gave 59,936,000 inhabitants. (Résumé, 1926, p. 5.)
[22] Including Chosen (Korea), Formosa, Pescadores, and Japanese Sakhalin.
[23] Estimated by Census Bureau, July 1, 1926.
[24] Gross area (land and water), Statistical Abstract of the United States, 1925, p. 3.

Sources: Unless otherwise stated, Statesman's Year Book, 1926, and World Almanac, 1927.

As the representation in the Congress is based upon the population rather than citizenship, it might be interesting to submit a statement prepared by the Bureau of the Census showing a table giving the population of each State as returned by the enumeration in 1920 and also the estimated population of each State in the year of 1930, together with an enumeration of the aliens in each State in the Union as of January 1, 1920. So that the failure to reapportion in the year 1920 has not denied citizens the representation claimed, even though the representation for persons was not changed.

I will not make extended reference to the table of population just mentioned, but upon examining the same you will find that the Federal census for 1920 disclosed a population of 105,710,620 in the United States, of which number 7,427,604 were aliens, or one-fifteenth part of the total were not citizens of the United States:

Population of the United States, by States, 1930, 1925, and 1920, with number of aliens in 1920

	Estimated population Jan. 1, 1930 [1]	State census 1925	Federal census Jan. 1, 1920	
			Total population	Aliens
United States	122,537,000		105,710,620	7,427,604
Alabama	2,612,000		2,348,174	8,968
Arizona	499,000		334,162	68,606
Arkansas	1,978,000		1,752,204	6,296
California	4,755,000		3,426,861	453,397
Colorado	1,116,000		939,629	54,400
Connecticut	1,717,000		1,380,631	233,634
Delaware	248,000		223,003	11,496
District of Columbia	572,000		437,571	13,739
Florida	1,489,000	1,263,549	968,470	35,899
Georgia	3,258,000		2,895,832	7,652
Idaho	567,000		431,866	15,765
Illinois	7,555,000		6,485,280	543,528
Indiana	3,220,000		2,930,390	84,977
Iowa	2,433,000	2,419,927	2,404,021	69,401
Kansas	1,847,000	1,812,986	1,769,257	48,509
Kentucky	2,577,000		2,416,630	11,934
Louisiana	1,977,000		1,798,509	30,507
Maine	800,000		768,014	65,046
Maryland	1,645,000		1,449,661	51,163
Massachusetts	4,367,000	4,144,205	3,852,356	629,227
Michigan	4,754,000		3,668,412	383,583
Minnesota	2,781,000		2,387,125	158,374
Mississippi	[3] 1,790,618		1,790,618	4,548
Missouri	3,544,000		3,404,055	78,772
Montana	[3] 548,889		548,889	35,410
Nebraska	1,428,000		1,296,372	58,422
Nevada	[3] 77,407		77,407	9,557
New Hampshire	458,000		443,083	53,250
New Jersey	3,939,000		3,155,900	421,551
New Mexico	402,000		360,350	23,456
New York	11,755,000	11,162,151	10,385,227	1,609,190
North Carolina	3,005,000		2,559,123	3,819
North Dakota	[4] 641,192	641,192	646,872	35,183
Ohio	7,013,000		5,759,394	372,925
Oklahoma	2,496,000		2,028,283	20,287
Oregon	923,000		783,389	49,918
Pennsylvania	10,053,000		8,720,017	795,330
Rhode Island	736,000	679,260	604,397	92,913
South Carolina	1,896,000		1,683,724	3,339
South Dakota	716,000	681,260	636,547	25,544
Tennessee	2,531,000		2,337,885	7,547
Texas	5,633,000		4,663,228	286,297
Utah	545,000		449,396	24,599
Vermont	[3] 352,428		352,428	23,472
Virginia	2,622,000		2,309,187	16,524
Washington	1,628,000		1,356,621	124,866
West Virginia	1,770,000		1,463,701	46,983
Wisconsin	3,009,000		2,632,067	203,888
Wyoming	257,000		194,402	13,913

[1] Revised February, 1928, on 1920–1927 data.
[2] Includes all foreign born, except those reported as naturalized.
[3] Population Jan. 1, 1920; no estimate made.
[4] Population State census 1925; no estimate made.

Population of the 20 largest cities in the United States, 1930, 1925, and 1920, with number of aliens in 1920

	Estimated population Jan. 1, 1930	State census 1925	Federal census Jan. 1, 1920	
			Total population	Aliens [1]
New York, N. Y.	6,087,700	5,873,356	5,620,048	1,218,074
Chicago, Ill.	3,234,700		2,701,705	382,741
Philadelphia, Pa.	2,106,700		1,823,779	210,538
Detroit, Mich.	1,445,500	[2] 1,242,044	993,678	185,969
Cleveland, Ohio	1,046,300		796,841	138,368
St. Louis, Mo.	861,300		772,897	45,018
Boston, Mass.	808,200	779,620	748,060	135,627
Baltimore, Md.	847,400		733,826	42,282
Pittsburgh, Pa.	680,900		588,343	58,268
Los Angeles, Calif.	[3]		576,673	72,024

[1] Includes all foreign born, except those reported as naturalized.
[2] Special census taken under Federal supervision as of May 31, 1925.
[3] Estimate not used; result unsatisfactory.

Population of the 20 largest cities in the United States, 1930, 1925, and 1920, with number of aliens in 1920—Continued

	Estimated population Jan. 1, 1930	State census 1925	Federal census Jan. 1, 1920	
			Total population	Aliens
Buffalo, N. Y.	564,500	538,016	506,775	58,520
San Francisco, Calif.	599,100		506,676	79,024
Milwaukee, Wis.	555,100		457,147	55,134
Washington, D. C.	572,000		437,571	13,739
Newark, N. J.	483,900		414,524	69,108
Cincinnati, Ohio	[3]		401,247	14,598
New Orleans, La.	436,800		387,219	17,132
Minneapolis, Minn.	468,100		380,582	34,099
Kansas City, Mo.	402,700		324,410	12,969
Seattle, Wash.	395,100		315,312	43,231

[3] Estimate not used; result unsatisfactory.

As the citizens of all of the nations mentioned, excepting the United States, are of the same homogeneous origin with no ethnic differences, whereas our population is composed of practically all of the different races of the world, thereby greatly multiplying our problems and manifestly demanding greater diversity in ideas and knowledge of government, even on these grounds it is apparent that the work of a Member of the United States Congress is much broader and calls for more consideration and legislative knowledge than would be required by a member of a like body in any of the nations mentioned.

It might also be asserted that the scope of legislation considered by the Congress of the United States covers a much larger field than that considered by any of the major legislative bodies of the world, so in view of the foregoing the soundness of a limitation of the membership of the House, as is proposed in this bill, which if enacted might become permanent in effect and therefore may be seriously questioned.

In average wealth represented, in average number of constituents, and in area, the table above set forth clearly proves the case of those opposed to a material reduction in the membership in the House of Representatives in the Congress of the United States.

I regret that lack of time will not permit a discussion of the mathematical methods that have been suggested in relation to the apportionment, but other Members will discuss this feature of the bill.

In conclusion, I trust that our action to-day will not set in motion a train of events that will subsequently require the aid or assistance of either of the other coordinate branches of this Government to discharge a duty that is so clearly a legislative one, and I am appealing to the membership of this House to retain the powers that were so plainly assigned to it by the Federal Constitution.

Mr. FENN. I yield 15 minutes to the gentleman from Massachusetts [Mr. LUCE].

Mr. LUCE. It has been argued against this bill that the task contemplated will be put into the hands of somebody in another branch of the Government. That is simply a ministerial duty, and is no more a delegation of power than would be intrusting the adding up of a column of figures to a clerk in the auditing department or of turning over to any other official any other of the mechanical operations of the Government.

It has been argued that a Congress may not bind its successor. That is perfectly true. But if the application of that principle should be carried to extreme, yet logical conclusion, it would be necessary for the first session of the next Congress to reenact the whole code of statute law on the ground that our authority does not extend beyond the period of our life here as a Congress.

It is also objected that this is not, of itself, an apportionment bill. Granting that such a quibble over words should have any attention, nevertheless, the fact is that this bill is a preliminary step, and is part of the performance of a duty we have long neglected.

These three things are pretexts, not reasons. Let no man here salve his conscience with a pretext.

Let him rather ask himself what, in this matter, may be the duty of a Member of Congress sworn to support the Constitution. To understand that, I ask you to turn with me the pages of history for a few minutes.

In September of 1774 the newly assembled Continental Congress, faced with the question of how votes should be taken, decided that each Colony or Province should have one vote. Benjamin Franklin, in the course of the Federal Convention, called attention to what his learned colleague, Mr. Wilson, had said, and indorsed it, to the effect that this method of voting

was submitted to originally under a conviction of its impropriety, its inequality, and its injustice.

For 15 years the country lived under that rule, and that rule was one of the causes of the Federal Convention of 1787, the convention that framed the Constitution. Under that rule it is asserted by Alexander Hamilton in the Federalist, by reason of the absence from the floor of delegates from some of the States, several times a sixtieth part of the Union, about the proportion of Delaware and Rhode Island, was able to impose an entire bar to the operations of the Congress. That the minority would and did thus dominate the majority at times was one of the reasons leading thoughtful, patriotic men to take steps for devising a new Constitution.

At the opening of the Federal Convention Gov. Edmund Randolph, of Virginia, presented a plan in the shape of a series of resolutions. One read:

Resolved, therefore, That the rights of suffrage in the National Legislature ought to be proportioned to the quotas of contribution, or to the number of free inhabitants, as the one or the other rule may seem best in different cases.

This became at once a matter of paramount importance, for Mr. Reed, of Delaware, rose and told the convention that the delegates from his State were restrained by their commission from assenting to any change of the rule of suffrage, and in case a change should be fixed upon it might become their duty to retire from the convention. So right at the outset the threat of disrupting that body, perhaps preventing any useful result from its labors, voiced by the gentleman from Delaware, spread itself over the convention like a pall.

The vital dispute began on the 11th of June. Mr. Sherman proposed that suffrage in the first branch should be allotted according to the number of its free inhabitants and that in the second branch each State should have but one vote and no more. Here is the first hint of what afterwards became the great compromise of the convention. That compromise was the rock upon which our Constitution was founded. Without it the Constitution would never have existed. To the adjustment between the large and the small States we owe our existence as a Nation.

The debate proceeded for days. All the strong men in the convention took part. The first result was a vote in committee of the whole that the rights of suffrage should not be according to the rules established in the Articles of Confederation, but in proportion to the whole number of inhabitants. This but incited the small States to further resistance. They demanded that their rights as in the Congress of the Confederation, each State to have one vote, should be preserved. The end of the month approached. Darker and darker became the situation. It was so ominous that Benjamin Franklin, despairing of bringing his colleagues to an agreement, arose and in the most solemn terms said:

In the situation of this assembly, groping, as it were, in the dark to find political truth, and scarce able to distinguish it when presented to us, how has it happened, sir, that we have not hitherto once thought of humbly applying to the Father of Lights to illuminate our understandings? In the beginning of our contest with Great Britain, when we were sensible of danger, we had daily prayer in this room for divine protection. Our prayers, sir, were heard, and they were graciously answered.

He saw the necessity of again turning to divine guidance and moved that thereafter each session should be opened with prayer. For various reasons no vote was taken on his proposal, one of them being the fear that the news of such a resolution at that late day might lead the public to believe that the embarrassments and discussions within the convention had suggested the measure.

It was thought that by referring the matter of representation to a committee perhaps a compromise agreement could be secured. So the convention adjourned over the 4th of July.

In that committee Franklin made the motion which led to agreement. It proposed equality of the States in the upper branch, representation in the lower branch according to numbers, and for the lower branch exclusive power to originate money bills. The committee adopted the proposal, and so reported.

Observe in passing that the new element was the promise that money bills should originate in the lower branch. Mr. Madison could not regard the privilege as any concession on the side of the small States. It has turned out to be as he thought. We now find it of very little importance.

The next day came up the question of one vote for each State in the second branch. Mr. Gerry said:

This is the critical question.

They all knew, every man knew, that the fate of the country depended upon this question. Gerry went on to say that he would rather agree to the proposal than have no accommodation. The spirit of compromise and concession was beginning to show itself.

With parity of States in the Senate agreed upon, there came the question of apportionment of Members of the lower branch, and with it proposal by a committee that in the case of new States or division of old States, Congress should have authority to—

regulate the number of Representatives * * * upon the principles of their wealth and number of inhabitants.

This brought Randolph to the front again. He was apprehensive that, as the number was not to be changed till the National Legislature should please, a pretext would never be wanting to postpone alterations and keep the power in the hands of those possessed of it. Farsighted Randolph! The next day he announced it was in his contemplation—note the precise words as they appear in Madison's notes—

to make it the duty, instead of leaving it to the discretion, of the legislature; to regulate the representation by a periodical census.

Here you have at the very fountainhead the source of what I conceive it to be our duty to-day.

Before adjournment Randolph moved as an amendment what presently was shaped into the article under which it is here proposed to act. Instantly it brought to his feet a typical aristocrat of his time, Gouverneur Morris, who opposed the proposal as fettering the legislature too much. His argument should interest gentlemen from beyond the Alleghenies, for—

he dwelt much on the danger of throwing such a preponderance into the western scale, suggesting that in time the western people would outnumber the Atlantic States.

Mason argued the other way:

If the Western States are to be admitted into the Union as they arise, they must, he would repeat, be treated as equals, and subjected to no degrading discriminations.

Morris, representing the Wall Street of his time, and speaking with a frankness that might not have been expected were not the session held behind closed doors, renewed his argument, saying:

The remarks of Mr. Mason relative to the western country had not changed his opinion on that head. Among other objections, it must be apparent they would not be able to furnish men equally enlightened to share in the administration of our common interests. The busy haunts of men, not the remote wilderness, was the proper school of political talents. If the western people get the power into their hands they will ruin the Atlantic interests. The back Members are always most averse to the best measures.

Randolph prevailed; and so, in defense of the West as well as in behalf of the country as a whole, decision was reached that the census should be taken every 10 years, with the clear intention that apportionment should immediately follow.

There are gentlemen here who consider, however, that this was not the intent, that the provision was merely permissive, not mandatory. See if more proof can be supplied.

After the convention there arose widespread discussion. The arguments for the Constitution, set forth with wonderful ability by Madison, Hamilton, and Jay, appear in what is now known as the Federalist, the greatest book on political science that was ever printed. Here appear the promises made to the people of the United States, the pledges that the agreements of the convention should be carried out. Lest memory might deceive me, let me read to you the very words of the assurance given by statesmen of that convention to all the States, both large and small. They appear in No. 58, believed to have been written by either Hamilton or Madison:

Within every successive term of 10 years a census of inhabitants is to be repeated. The unequivocal objects of these regulations—

Mark you that—

the unequivocal objects of these regulations are, first, to readjust, from time to time, the apportionment of Representatives to the number of inhabitants, under the single exception that each State shall have one Representative at least.

Ah, you may say it was still simply permissive; but go on and see the conclusion of that paragraph, where this appears:

If we review the constitutions of the several States, we shall find that some of them contain no determinate regulations on this subject, that others correspond pretty much on this point with the Federal Constitution, and that the most effectual security in any of them is resolvable into a mere directory provision.

The conclusion is inescapable that the framers of the Federal Constitution meant the provision they framed to be mandatory,

that they meant nothing else whatever than immediate reapportionment after every decennial census. Every line of the discussion in this matter shows that this positive duty was imposed upon us.

Does any man here contemplate a further avoidance of this duty? Let him remember the oath he took to support the Constitution.

Sir, in yonder Hall, now inhabited only by the effigies of the great, is that of a statesman who once represented Massachusetts, Daniel Webster, foremost expounder of the Constitution. I have not his majestic form, his massive head, his marvelously eloquent voice, his unsurpassed power of logic, but the spirit of Massachusetts may still breathe from the lips of a Representative of Massachusetts, and in his words I for one declare—

I shall exert every faculty I possess in aiding to prevent the Constitution from being nullified, destroyed, or impaired.

[Applause.]

Mr. RANKIN. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. GREENWOOD]. [Applause.]

Mr. GREENWOOD. Mr. Chairman and gentlemen of the committee, it is true, as my colleague has said, that Daniel Webster was a great expounder of the Constitution, and he and the colleagues of his day, it is equally true, were at all times willing to defend and hold within the control of this House the powers that have been delegated to the House by the Constitution itself.

I am not willing to set up a machinery or a formula that goes to the vital elements and the sanctity of this House. I am not willing to say that 435 Members shall at all times in the future be the sacred number upon which this House shall be organized.

I know that the functions of the Federal Government are growing. I know that the details and duties of every Member of this House are accumulating, and the principal complaint that is raised to the present situation comes from the cities where Members have a constituency sometimes of one-half million. Why? Because they have greater duties than other Members that have the uniform and regular number. So I am not willing to pass a bill here that will, for all time, forestall the increasing of the number of this House unless we go and bow down on our knees to the Senate of the United States or to the President and ask them to increase the size of the House and have them assume no responsibility under their oaths of office by saying, "Oh, we are satisfied with it as it is and there is a basic law that we can fall back on," and it will not be reapportioned if they do not desire it, even though the House may desire an increased membership.

Likewise, if the President of the United States shall conclude that 435 is a sacred number for all time, he can veto a bill without any responsibility as to their being no reapportionment, and throw it back on this basic law which we are now attempting to pass, and then the House, in order to increase its own membership, will have to pass a bill by a two-thirds majority vote over the veto of the President.

I do not believe the fathers who ordained and created this Constitution ever expected that the House of Representatives would delegate this power and put it in the hands of the Senate and of the President to hold a whip over the House of Representatives itself.

Mr. STEVENSON. Will the gentleman yield for a suggestion?

Mr. GREENWOOD. Yes.

Mr. STEVENSON. In addition to having to pass it by two-thirds over the President's veto, you would have to get two-thirds of the Senate to pass it over the President's veto also.

Mr. GREENWOOD. Certainly; if vetoed, the Senate, by two-thirds, must agree to increase the House, or else we fall back on this monstrosity that we are asked to vote upon here to-day.

The Constitution of the United States does not contemplate either in words or in spirit that a reapportionment bill shall be passed before a census is taken, but it does contemplate that that shall be done after a census is taken.

If I had been here in 1920, in the Sixty-sixth Congress, whether that census suited me or not, I would have voted for reapportionment. I am a Member of the next Congress, and I am willing to say here now that I will vote to reapportion the House of Representatives after the census has been taken, and I know how many Representatives under that bill will be assigned to the State of Indiana by the House of Representatives itself, and not by some delegated authority.

The reports of the Census Bureau, at times using one method and at times using another, known as major fractions and equal proportions, has from the same census given different representation to the same State according to a different method used.

I am not willing to commit myself by saying that the method of major fractions is the best method, but this bill says so, and it is put in as a fundamental law for all time, unless we can change it by a two-thirds majority of this House and of the Senate over the President's veto.

Mr. GIBSON. Will the gentleman yield for a suggestion?

Mr. GREENWOOD. Yes.

Mr. GIBSON. This method of major fractions has been discarded, has it not, by the Census Bureau itself?

Mr. GREENWOOD. I think they favor the other method, and they have assigned representation that is different to the same State by using the two different methods.

When a bill comes out of the Census Committee before this House that tells me how many Representatives my State shall have and your State shall have, as they have in the past, without delegating that to some other authority to figure out, I am willing to act upon it.

I am willing to vote in the next Congress for reapportionment, but I am not willing to express a lack of confidence in the next Congress, of which I am to be a Member, and to which most of you have been elected to be Members, by saying that I am not willing to trust that Congress, of which we will be a part, to do its constitutional duty and provide a reapportionment after a census is taken; but that we must provide some means before a census is taken.

I am not willing to stultify myself to this extent. I am not willing to say that I am not willing to trust you, my colleagues, to do your constitutional duty, and I shall vote against this bill. Even though my State shall lose, I would expect it to lose, if the census showed that it should lose; and I say to you that most of the opposition in this House is not based upon the fact that certain States will lose representation, as has been said by one of my colleagues, but is based upon the irregular, the anomalous way, a method that is an innovation, that lacks trust and confidence in the Congress to do its duty, and I am not willing to stultify myself by voting for a bill of that kind, which is something that has never yet been proposed in the annals of the history of our country.

This is not a reapportionment bill. This is simply signing a proxy for somebody else to do your constitutional duty which you will do when the time comes for you to do it.

Mr. PERKINS. Will the gentleman yield?

Mr. GREENWOOD. Yes.

Mr. PERKINS. There is some uncertainty among some of us as to what the method of major fractions is; will the gentleman kindly explain that?

Mr. GREENWOOD. I do not pretend to know. I have sat in the committee room and have heard the professors explain this method and the other method. I think I know a little something about it, but I would not undertake to try to explain it; and I doubt if there is anybody in the House, unless it would be my friend JACOBSTEIN who would undertake to explain it. I do not think there is another member of the committee who could explain it or who understands it.

I do know that when they use that method and when they lay alongside of it the other method of equal proportions out of the same census they can give my State one more Member by one method than they can by the other method.

I prefer to see in the printed bill just how many Members your State will have and my State will have. The Constitution provides in the first instance for that, and I think I can read that language with understanding.

Mr. BEEDY. Will the gentleman yield?

Mr. GREENWOOD. I yield.

Mr. BEEDY. Under the tabulations already made, using the methods of equal proportion, the State of New York would lose two Members, and under the major fractions she would lose but one Member. Are there two Members from New York on the committee?

Mr. GREENWOOD. I think so.

A MEMBER. There are three.

Mr. BEEDY. That would account for the adoption of major fractions. [Laughter.]

Mr. GREENWOOD. The formula in this bill ties us up for all time under the law to a method that you can not change unless you have a two-thirds vote of the Senate or a veto by the President and you pass it over the veto. I am not willing to accept that method. The Census Bureau has reported this as not the most equitable formula. We can wait until two years hence, after the census has been taken and the bill which is to be framed stating how many Representatives the State of

Indiana will have and how many we will have from your own State. [Applause.] Then I shall support reapportionment.

Mr. Chairman, I yield back the balance of my time.

Mr. FENN. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. GRAHAM].

Mr. GRAHAM. Mr. Chairman, I had no intention of speaking, because I feel that probably I am one of the least qualified of the Members to speak on this subject. I have never given it any great thought, because it did not come within the scope of my work or duty. While I have read the bill and have studied the surrounding conditions and the history of the legislation for the last six or seven years, I feel that this piece of legislation comes before the House in the form in which it can be accepted by every Member as the initial step in making an apportionment.

I do not know that it is perfect. I might have some question about it; but, after all, it seems to me that whether you do it by limiting the membership to some method of fractions or by population, it is immaterial. After all, Congress does in that way apportion among the States the representatives who are to represent them. It strikes me that the argument that we are delegating our powers and duties is rather technical and does not have much merit. The Census Bureau gathers all the facts and the statisticians must make up the returns, and they file the certificate with the House and the House can accept or reject it and get other statisticians. There is no delegation of legislative power that I can see.

I was wondering whether the third and fourth paragraphs were really necessary, because the law itself would take care of that. Under the Constitution the power rests with the States to regulate except so far as Congress may enact legislation; the whole power is with the State. It does seem to me, and in a general way I have felt the force of the suggestion, that our duty is to make an apportionment, and when we fail to do it we are not living up to our constitutional duty, and I welcome this report from the committee giving us this formula in which we may take the first step to cure this situation. I am going to give my vote in favor of the adoption of this measure, for I think it is wisely considered and presents the best possible form in which we can now approach this subject. Let us go ahead and have an apportionment made, obeying the Constitution, and cease to be a subject of censure. [Applause.]

Mr. RANKIN. Mr. Chairman, I yield 10 minutes to the gentleman from Missouri [Mr. LOZIER].

Mr. LOZIER. Mr. Chairman and gentlemen, I do not believe during my short experience as a Member of this body so short a bill as this has ever come before Congress with so many invalid, specious, and unconstitutional provisions as has this bill.

Apropos the suggestion of the distinguished gentleman from Pennsylvania [Mr. GRAHAM], I have heretofore called the attention of the House, and the committee that reported the bill, to the provisions of sections 3, 4, and 5. No man familiar with the Constitution, no man that has even a speaking acquaintance with our organic law, will contend for one moment that sections 3, 4, and 5 have any binding force or effect whatever. The gentleman from Pennsylvania, one of the ablest lawyers in this body, nods his head in approval. Every lawyer, every man that knows anything about the Constitution, knows that these three provisions are violative of the letter and spirit of constitutional mandate. The only power that Congress is given by the Constitution with reference to apportionment of Representatives is to apportion the representation among the several States in proportion to the numbers or population. That duty done, the power of Congress ends, and Congress has no power to determine in what manner the several States exercise their sovereign rights in selecting their Representatives in Congress, and I was glad to hear the gentleman from Pennsylvania [Mr. GRAHAM] indorse what I said on this subject at the last session of Congress on this floor. He says that there is no occasion or need for those provisions. I go further and say that no man who has even a speaking acquaintance with the Constitution will get on this floor and defend the provisions of sections 3, 4, and 5.

I recognize the right and the duty of Congress to apportion representation, but that duty is placed primarily upon Congress, and it is a duty and responsibility that Congress can not and should not seek to avoid.

I would rather vote to-day for a reapportionment bill which will allocate the representation among the several States, based upon the census of 1920, than vote for this measure, because while it is not probable a reapportionment measure of that kind could become effective and operative before the next decennial census, yet in doing that we would be carrying out the constitutional mandate, but the bill before us is not a reapportionment bill. It does not seek to correct the abuses and errors of Congress in failing to reapportion representation after the Fourteenth Decennial Census was taken. It is a mere gesture. It furnishes the party in power or the Congress composed of both Democrats and Republicans with an alibi for their failure in 1921 to enact a reapportionment measure.

By this bill, if it becomes a law, you say that you are not vesting the Secretary of Commerce with any arbitrary power. I deny that. I say that by this bill you are placing in the hands of the Secretary of Commerce the absolute power to defeat any reapportionment under the provisions of this act. Section 1 does not provide for reapportionment. It provides that the Secretary of Commerce shall transmit to Congress a statement of the population and the number of Representatives that each State would have on the basis of the membership of 435. But it ends there. What does section 2 provide? Among other things it provides that if the session of Congress to which the population is certified fails to pass a reapportionment bill, then the Clerk of the House shall transmit to the executives of the several States a certificate showing the number of Representatives that each is entitled to under the new census. So far, so good. Then we pass to paragraph (b) of section 2, which provides that section 2 shall have no force and effect unless the statement required by section 1, in respect to such census, is transmitted to Congress at the time prescribed in section 1; and what does section 1 prescribe as the time those reports as to population must be submitted to the Congress? Section 1 provides that this certificate must be sent to Congress on the first day of the first session of the Congress following the taking of the census.

If this bill becomes a law and the census is taken in 1930, the Bureau of the Census and the Secretary of Commerce might have all of the facts and figures as to population, and yet, purposely withhold or delay the certificate, and unless he on that particular day, not a day sooner, not a day later, transmits to Congress the certificate showing the population, then section 2 by the terms of the act itself is not operative, and you get no reapportionment whatever.

Mr. BURTNESS. Mr. Chairman, will the gentleman yield?

Mr. LOZIER. In a moment. Then again what does this bill provide? It gives the Secretary of Commerce the arbitrary power by delaying the completion and promulgation of the census to delay sending in the certificate beyond the first day of the session of the succeeding Congress, and whether he does that from an unworthy or a worthy motive, he is vested with absolute power to emasculate and destroy this law, and at no subsequent day after that can he furnish the certificate to Congress, and this law has no force and effect.

Think of the autocratic power you are giving to the Secretary of Commerce. You are making it possible for a Secretary of Commerce to arbitrarily delay the completion and promulgation of the census. You are placing in his hands the power to play politics and use his high office for partisan purposes. He could have the census in certain cities and States retaken, in an effort to increase or decrease the population of this or that State so as to create a major fraction for a favored State and reduce the major fraction of another State to a minor fraction. You are giving to the Secretary of Commerce the power to manipulate census statistics relating to the population of this or that State, and by omissions or additions to deprive States of one Representative when a slight change will convert a major fraction into a minor fraction or a minor fraction into a major fraction thereby giving a favored State a Representative to which it is not entitled. Think of the Congress of the United States writing into a bill that is supposed to be permanent law a provision that makes it possible for the Secretary of Commerce, from a worthy or an unworthy motive, actuated by partisanship or patriotism, to delay sending this certificate to the Congress, and if this certificate fails to reach Congress on the first day of the short session of Congress after the taking of the census, then by the express terms of the bill, no action can be taken under this law for 10 years, and this act would have no force or effect whatever!

Mr. BURTNESS. Mr. Chairman, will the gentleman yield?

Mr. LOZIER. I yield to the gentleman from North Dakota.

Mr. BURTNESS. The gentleman emphasizes a situation where the Secretary of Commerce may voluntarily fail to do such a thing. What about it, for example, if he has overlooked it?

Mr. LOZIER. Yes.

Mr. BURTNESS. What would be the situation if he did transmit it by messenger on that day and the messenger either got sick or was waylaid and the message taken away from him by somebody who did not want the law to go into effect?

Mr. LOZIER. The gentleman is quite right. I say that no law has ever been placed on the statute books of this Nation which contained a provision as loosely drawn as this one and

carrying with it so many possibilities of danger and abuse. We can not suppose for one moment that all Secretaries of Commerce are going to be honest or entirely impartial in the exercise of power with which they are entrusted. This bill would furnish a temptation and easy chance for a partisan or corrupt Secretary of Commerce to manipulate census statistics and withhold this certificate where by so doing he could aid his political party. Heretofore the Bureau of the Census has been a nonpartisan body and a very efficient organization. It has been a purely business bureau, free from political bias, and under the wise administration of Director Steuart and Assistant Director Hill and bureau chiefs it has established an enviable reputation for efficiency and nonpartisanship. Under present conditions there is no motive to furnish anything but accurate statistics, but when you give the Secretary of Commerce the power carried by this bill you invest him with prerogatives that would tempt any man who is a partisan and who sees an opportunity to aid his party by the shifting of a few figures under cover, and a designing partisan as Secretary of Commerce could manipulate statistics so as to deny States representation to which they are entitled and you make it possible for him to prevent a reapportionment by not sending his certificate to Congress on the first day of the short session of Congress after the census is taken. In 10 minutes I can not even refer to the many reasons which influence me to oppose this measure. After the 1930 census is taken I will vote for a reapportionment bill. I hope it will be a bill that will not reduce the number of Representatives from Missouri, but whether or not Missouri retains her present number of Representatives, I will vote for a reapportionment bill immediately after the 1930 census is taken. [Applause.]

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. RANKIN. Mr. Chairman, I yield three minutes to the gentleman from Pennsylvania [Mr. WELSH].

Mr. WELSH of Pennsylvania. Mr. Chairman, my esteemed colleague from Pennsylvania [Mr. GRAHAM] has referred to this proposed legislation as being an initial step on the part of the House toward disposing of the question of reapportionment. Now, what a great many of us fear is that this is not the initial step but it may be the final step so far as the House is concerned in having a voice in the apportionment or the representation in this House.

Mr. BURTNESS. Will the gentleman yield?

Mr. WELSH of Pennsylvania. In a moment. I come from one of the large cities of the country. There is no question of the fact that those of us who come from these large cities feel we ought to have a greater representation in the Halls of the Government. But my State, by this mysterious method of computation as shown by the figures, will be deprived of one vote. The district which I have the honor to represent has over a half million population. We voted 150,000 in the last presidential election, and yet the State of Pennsylvania will be deprived of one Representative in Congress if this proposed legislation should be adopted. I am not saying that controls my vote here to-day. I think I can approach this matter as unselfishly as any Member of this House, but it is because I believe this plan will place it beyond the power of Members of this House to decide the constitutional question of apportionment of Representatives that I am so strongly opposed to the proposal. The plan does not seem to me to be wise. It seems to me, my colleagues, that the proponents of this bill are fearful of conditions that might exist in 1931 and 1932. Why in 1929 should we pass legislation having to do with the control of this House in the matter of apportionment when we do not know what may be the facts in 1932? In 1931, when that great question of the shift of population shall have been decided, when we shall have spread before us the urban and suburban population in figures, when we have the figures of the migration East, South, North, and West, we can then understand the situation and act according to the facts before us. Reapportionment I am in favor of, but it should be done by this House and when we are in possession of all the facts.

The CHAIRMAN. The time of the gentleman has expired.

Mr. FENN. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. BLACK].

Mr. BLACK of Texas. Mr. Chairman, I shall support this bill, and I hope it will be adopted, and one reason I intend to support the bill is because I believe it will do what the gentleman from Missouri seems to fear will not be done, and that is that when the results of the 1930 census are declared there will be an apportionment even if the Seventy-first Congress fails to do its duty as Congresses have failed to do their duty since the result of the 1920 census. Now, I do not think that there is a plainer duty imposed upon the Congress of the United States by the Constitution than the duty of apportioning representation among the several States according to their population. During the debate a good deal has been said to the effect that Congress ought to be jealous of its constitutional prerogatives, and I agree to that. I like to see the House of Representatives stand up for its rights and resist any efforts to take away its powers; but while the House of Representatives ought to be jealous of its rights and prerogatives, at the same time it ought to be just as keenly anxious to discharge its duties and responsibilities. One of its most important duties is to apportion the Members of the House following each decennial census, according to population. Now, let us get down to the facts. Why has there not been a reapportionment since the results of the 1920 census were declared? The answer is simple enough. It is because the House of Representatives determined that the membership should not be increased, and that meant that some States would lose some of their Representatives, and those States, by use of first one device and then another, have thus far prevented any apportionment following the 1920 census.

The House of Representatives of the United States Congress is to the American people very much the same as the House of Commons is to the British people. It is the popular branch of our Government, and in the use of that word "popular" I, of course, mean it represents the people of the several States according to population, and is elected every two years by a direct vote of the people. Therefore we more nearly represent the current thought of the people on public questions than any other branch of the Government.

The United States Constitution provides that Representatives and direct taxes shall be apportioned among the several States according to population.

By the sixteenth amendment, commonly known as the income tax amendment, we have done away with that requirement so far as direct taxes are concerned—income taxes—but there has been no change in the rule regarding Representatives in the House, and there will be no change in that rule, because if there were, it would strike at one of the foundations of our Republic. But while there will be no change in the rule so far as the Constitution is concerned, Congress itself, by neglect, could very seriously impair the rule. There is no executive, there is no court, that can compel Congress to discharge this duty. Therefore, because of that very fact, we ought to be more keenly anxious to discharge the responsibility. It is claimed by some of the opponents of this bill that it delegates legislative powers to the Secretary of Commerce. The duties prescribed in the bill for the Secretary of Commerce are so clearly ministerial in character that I do not deem it necessary to discuss that phase of the matter.

Mr. HUDSPETH. Mr. Chairman, will the gentleman yield?

Mr. BLACK of Texas. Certainly.

Mr. HUDSPETH. I like to hear my colleague, because he is always clear on things he has given thought to. I do not understand why minor fractions have not been used. Why base this matter on equal proportions without fractions?

Mr. BLACK of Texas. I must answer that briefly and then go ahead with my remarks, for I have only 10 minutes. The method of major fractions was used in the apportionment after the census of 1910 and was generally satisfactory to the people. I have never heard any complaint against it. This bill simply follows the method of apportionment which was used in 1910.

Mr. JACOBSTEIN. I may add that no other method has been used.

Mr. BLACK of Texas. I presume the gentleman from New York is correct in that statement. Ever since the taking of the first census in 1790 the size of the House of Representatives has been increased following each decennial census, except two—the census of 1830 and 1920. There has been no apportionment at all following the 1920 census.

Now, I believe that there are many people in this country who are earnestly of the opinion that increasing the size of the House of Representatives to prevent any States from losing representation has gone on longer than it should have gone, and ought to have been stopped, perhaps, at a membership of 300 or 350. I am sure that there are many people who believe that a House of Representatives with 300 Members or 350 would function better and be really more representative of the people than a membership of 435. But whether that is true or not, it is not worth while to argue at this time.

I believe that almost everyone is agreed that the membership ought not to go beyond the present membership of 435. We already have too many offices and too many officers in the United States, municipal, county, State, and Federal, and let us not add to the number by increasing the size of the House of Representatives. The surest way to prevent an increase in the size of the House of Representatives following the census of 1930 is to pass this bill at the present time. It provides a definite method, one that is just and workable. The House

now has an opportunity to perform a duty already too long delayed, and I hope that we will not fail to perform that duty. Let us pass this bill. [Applause.]

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. RANKIN. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. DICKINSON].

The CHAIRMAN. The gentleman from Iowa is recognized for 10 minutes.

Mr. DICKINSON of Iowa. Mr. Chairman and gentlemen of the committee, everybody is trying to fix the responsibility for the lack of apportionment during the last eight years, and you can not fix it upon any one group of people in the House of Representatives. A certain number of people thought the census of 1920 was not fair; that it was taken to the disadvantage of the rural sections of the country, it having been taken following the war. There is another group of people who believe that we should not increase the membership of the House above 435, and in view of all these conditions we have faced a situation here that has prevented a reapportionment.

I want to say to those Members from States which are getting an increase in the number of Congressmen under this new apportionment plan that they are no more loyal to the Constitution than those of us who are against the bill when our States lose 1 or 2 or 3 Members of Congress; and if you would turn the program around the other way they would be occupying very much the same position that those of us occupy who are opposing the bill. In other words, there is a lot of difference whose ox is gored.

Mr. SNELL. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. SNELL. I think the State of New York is pretty nearly unanimous for this bill, although they expect to lose two Members.

Mr. DICKINSON of Iowa. Yes; probably New York has had a change of faith, the same as some other delegations.

Mr. SNELL. That has been my position since the beginning. I am speaking of the present Members from New York.

Mr. STOBBS. The State of Massachusetts is content.

Mr. DICKINSON of Iowa. It has been recently converted to a new political faith, and no one can predict what they are going to do in the future.

Mr. LUCE. That has been the position of Massachusetts every time this question has been up.

Mr. DICKINSON of Iowa. Possibly you have had a lot of friends there who are so wrapped up in the provisions of the Constitution that you are more holy-minded than the rest of the Members of the House. But I notice that the Members from Massachusetts are just as human as the rest of us, and when Massachusetts interests are involved they are against a thing when it is adverse to the interests of Massachusetts. [Laughter.]

Mr. RANKIN. Will the gentleman yield?

Mr. DICKINSON of Iowa. Yes; I yield.

Mr. RANKIN. In 1921, when we had a bill on the floor of the House that would have adjusted these differences and disposed of this matter, the gentleman from Massachusetts [Mr. LUCE] voted to recommit it to the committee without instructions, thereby killing the bill.

Mr. JACOBSTEIN. Will the gentleman yield?

Mr. DICKINSON of Iowa. Yes.

Mr. JACOBSTEIN. For the sake of the RECORD, I would like to have the gentleman know that the Republican Member and the Democratic Member from New York on the committee have always favored apportionment.

Mr. DICKINSON of Iowa. I want to say to the House that it happens that there are two men on the committee from Detroit, Mich. This bill was reported out by a majority of one vote, and tell me of another committee in this House where you have two men from one city or State that is gaining, I think, four or five or six Members—I do not remember the number—on that one committee. What are they on there for? To get this bill through this House and nothing else.

Mr. JOHNSON of Washington. I do not think any Member has the right to impugn the motives of any other Member of the House of Representatives.

Mr. DICKINSON of Iowa. All right.

Mr. RANKIN. That is the order of the day. [Laughter.]

Mr. McLEOD. Will the gentleman yield for a question?

Mr. DICKINSON of Iowa. I yield.

Mr. McLEOD. Does the gentleman know why that condition exists?

Mr. DICKINSON of Iowa. I presume because the Michigan delegation was active in getting those two Members on that committee.

Mr. McLEOD. Does the gentleman know that for six years that committee has failed to report out a bill due to the fact that there were so many members on that committee who would not vote for any bill whatsoever?

Mr. DICKINSON of Iowa. I am glad to have that confession from the gentleman from Michigan, that they went on there for that purpose. Now, let me suggest to you that the trouble with this bill is this: That you are adopting a formula here by which this apportionment in the future is going to become automatic. Ah, what kind of leadership are you going to have? What is the fear of the Members of this House that in the future the Members are not going to be able to carry out the provisions of the Constitution, so that the easiest thing on earth to do would be to say, "Oh, well, we do not want the responsibility of apportioning the House and therefore we are going to fix it by a little formula here that will act automatically, and thereafter, every time a decennial census period runs around, in a period of 10 years, Congress is not going to do its duty, the leadership is going to run to the woods and they are going to sit down and let this formula do the job of apportioning Members of Congress in the various States according to this formula." What a splendid view we must take of the Congresses of the future when we say we have got to fix up a sugar-coated pill by which they can perform their duties and perform them automatically without having any responsibility on themselves. If I were going to be a leader in some of the future Congresses, I would resent any such imputation upon the responsibilities of those Congresses which are to come.

Mr. MICHENER. Does the gentleman contemplate retiring?

Mr. DICKINSON of Iowa. I do not know and I am not going to make any promises. [Laughter.] There are some people here who have made promises on this floor about which they have changed their minds. At the present time I am perfectly satisfied with my job.

Mr. PERKINS. We have heard the Constitution expounded, but some of us are waiting to hear the theory of major fractions expounded. Will the gentleman kindly do that?

Mr. DICKINSON of Iowa. No.

Mr. BEEDY. We will call on New York State for that.

Mr. DICKINSON of Iowa. I will refer you to the gentleman from New York, but I will say to you that I am going to offer an amendment by which I change from major fractions to equal proportions. [Applause.]

Mr. FENN. May I ask the gentleman whether he can explain the theory of equal proportions?

Mr. DICKINSON of Iowa. No; I can not, and I do not think the chairman of the committee, who has been studying this thing for six or eight years, can explain them either, and I have every respect for his splendid ability and believe he is one of the outstanding Members of the House.

Mr. KETCHAM. Will the gentleman yield for a brief question?

Mr. DICKINSON of Iowa. Yes.

Mr. KETCHAM. If the gentleman will not undertake to explain major fractions and equal proportions, can he tell us in a word what would be the practical effect of the adoption of either of these two methods?

Mr. DICKINSON of Iowa. Well, the practical effect is just as selfish as some of the other things I have referred to here, that some States will get another man and some States will lose a man, and that is what is behind the motives of most of the Members if we tell the truth about it.

Mr. KETCHAM. In the gentleman's extension of remarks, will he put in exactly what will be the result?

Mr. DICKINSON of Iowa. I think I have that information and I will be pleased to do so.

Mr. LOZIER. Will the gentleman yield for one question in re the major-fractions theory?

Mr. DICKINSON of Iowa. Yes.

Mr. LOZIER. Answering the gentleman as to what the major fractions formula is, I will say that Doctor Willcox, its founder and formulator, says:

> It is a system by which you cut and try to find out a basis by which you can reach a desired end.

Mr. DICKINSON of Iowa. Mr. Chairman, I do not care to yield any further. Somehow I have the habit of stating things so that everybody wants to ask me questions.

Let me suggest this to you: Why make a situation worse by legislation? As a matter of fact, one of the things this bill will do will be to convince the next Congress and the Congresses that are to follow that the Seventieth Congress did not have any business passing this legislation, and therefore they will say, "We are going to show them that we are boss of this job, and we are not going to follow their rule."

Next, if you want information, pass the first section of this bill and strike out the provisions for further reports, other than the 1930 census, and so that the Secretary of Commerce, through the Census Bureau, shall report to the House the information that we need; and when you come to section 2, that ought to be stricken out. Section 3 ought not to be in here, because the States ought to have their own way of making up their apportionment when they know the number of Congressmen they are going to have. [Applause.]

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. FENN. Mr. Chairman, I yield 10 minutes to the gentleman from Michigan [Mr. MAPES].

Mr. MAPES. Mr. Chairman, I am in favor of the passage of the pending Fenn bill. I think that Congress should declare its purpose now, without any further delay, to perform its constitutional duty with respect to this matter of apportionment. It, of course, has delayed doing so already all too long.

Something was said by the preceding speaker about the membership on the Census Committee of two Representatives from the State of Michigan. It might be interesting in that connection for the House to keep in mind that of the eight members of the Census Committee who signed the minority views on this bill seven of them come from States which would lose representation in this body if the bill should be enacted into law.

I compliment the gentleman from Georgia [Mr. RUTHERFORD] as being the only man who signed the minority views who comes from a State that is not scheduled to lose membership in this body under the bill. Here are the names of the Members who signed the minority report: Mr. RANKIN, of Mississippi, his State loses 2; Mr. GREENWOOD, of Indiana, 2; Mr. LOZIER, of Missouri, 3; Mr. RUTHERFORD, of Georgia, none; Mr. MOORMAN, of Kentucky, 2; Mr. DEROUEN, of Louisiana, 1; Mr. FITZPATRICK, of New York, 1; and Mr. THURSTON, of Iowa, 2.

I believe that it is a plain mandate of the Constitution for Congress to make a reapportionment every 10 years. In the language of Justice Story it is "a duty positively enjoined by the Constitution." How else can the spirit or the letter of the compromise which resulted in one provision being written into the Constitution giving each State two representatives in the Senate, regardless of its size, and the other provision giving each State representation in the House of Representatives according to its population be carried into effect? Failure to pass apportionment legislation destroys the purpose of that compromise and clearly nullifies the provision of the Constitution which promises every State representation in this body according to its population. Failure to pass it is unfair and unjust to States whose population increases more rapidly than the others.

Many Members of the House are in favor of the Fenn bill who come from States that will lose some of their membership if the bill is enacted into law. They are entitled to our admiration and have it. May their number increase. Some of us can not claim any such credit. I come from a State whose delegation in the House of Representatives will be materially increased if the bill becomes a law. The people of Michigan feel very keenly that Congress ought to act upon this matter. However, I believe that it is my deliberate judgment, uninfluenced by these considerations, that it is the plain duty of Congress to act and that its failure to do so can not be defended.

Let me read an extract from an editorial appearing in the Public Ledger of Philadelphia last Sunday referring to this bill:

> Use of the terms "gain" and "lose" should not obscure the fact that all this measure does is to restore the system of equal representation in the House according to the population of the States. The same principle is made fully applicable to the Electoral College. This is a measure for justice to all. By its prompt passage Congress can do something to remove the disgrace it has incurred by its long defiance of the plain mandate of the Constitution.

That is the expression of an unprejudiced editorial writer on a great metropolitan paper representing a State which will undoubtedly lose one Member in this body if the bill is passed, and in my judgment it is the same conclusion which any unprejudiced student of this question will arrive at after giving it mature deliberation.

Let us see what some of the consequences of our failure to pass any reapportionment legislation since the census of 1910 are. For example, the estimated population of the sixth congressional district of Michigan, represented by my colleague, Mr. HUDSON, is over 1,350,000. That of the tenth district of California, represented by the gentleman from California, Mr. CRAIL, is over 1,250,000. The first district of Michigan, represented by my colleague, Mr. CLANCY, and the thirteenth, represented by my colleague, Mr. MCLEOD, are not far behind, and there are districts in other States nearly as large.

Compare the population of these districts which I have mentioned with those in some of the other States and what do we find? In making this comparison I have no desire to pick on any State, and I am calling attention to the different States and the districts in them only to show the inequalities which now exist.

The eighth congressional district of Missouri, for example, has a population according to the census of 1920 of 138,807, only a trifle over one-tenth of the present estimated population of the district represented by my colleague, Mr. HUDSON. Can anyone defend that situation?

The sixth district of Missouri, according to the census of 1920, has a population of 138,931; the twelfth district of Missouri, 141,664; the third district, 151,884. In fact, 10 of the 16 districts in the State of Missouri have a population of less than 180,000. It is a significant fact, too, that every one of the 10 districts of Missouri referred to had a smaller population in 1920 than it did in 1910, the decrease ranging from 3,000 to 13,000 per district. Can Congress justify itself under the Constitution in permitting districts with a diminishing population to have votes in this body equal to those with a rapidly increasing population?

Is there anyone who in his wildest dreams imagines that it is either feasible or practicable to continue to increase the size of this body so that those districts or States with a progressively diminishing population will never lose in membership in this body?

There are four congressional districts in Maine, each one of which has a population of less than 200,000. Vermont has two Congressional districts, one of which has a population of 175,832, the other 176,596. The two Vermont districts also had a smaller population according to the census of 1920 than they had according to that of 1910. The State of Indiana, as a whole, according to the census of 1920, has a population of 2,930,390. The same census gives the State of Michigan a population of 3,668,412, over 700,000 more than the State of Indiana. Yet both States have the same number of Representatives in this body. The estimated population of the two States for 1920 increases the disparity. The estimated population of the State of Indiana for 1930, according to the report of the Census Committee, is 3,200,000; for the State of Michigan it is 4,754,000.

I take it that no one will attempt to justify a condition which permits two States with such differences in population to have the same number of Representatives here.

In my judgment no one can justify a vote against this bill on the ground that its passage may deprive his State of some of its Representatives in this body. If the Constitution is complied with, every State will always have its proportionate representation. Is there a State that desires to have a greater proportionate representation here than it is entitled to under the Constitution; or is there anyone who thinks that his State will long be permitted to cast more votes in this body than it is entitled to cast under the Constitution?

Mr. COLE of Iowa. Will the gentleman yield?

Mr. MAPES. I am sorry. I can not yield. My time is too limited.

It is probably true that no power outside that fundamental one of the people to change the personnel of Congress can compel Congress to perform this duty, this mandate of the Constitution; but that very fact puts an added responsibility upon us to see to it that our duty in this respect is faithfully and scrupulously performed. [Applause.]

Mr. RANKIN. Mr. Chairman, I yield five minutes to the gentleman from Vermont [Mr. GIBSON].

Mr. GIBSON. Mr. Chairman, I am opposed to this bill not alone for the reason that under its operation my State would suffer an inequality of representation greater than any other, with one possible exception, but because it is proposed to use a method that discriminates in favor of the large State, because it is proposed to tell a future Congress what it shall do in the matter of reapportionment, because it delegates to an executive department the actual reapportionment, and because at the best this measure is only a protest against the failure to make a reapportionment under the census of 1920.

INEQUALITY OF REPRESENTATION

Under the reapportionment proposed, using the population basis of 1920, the departure from the average constituency of the country would be 110,561. This departure would be exceeded by only two States. Thus it will be seen that Vermont will suffer greatly under the contemplated reapportionment.

The work that falls to a Representative has increased greatly during recent years. The closer relations between the Federal and the State Governments has brought this about. Government activities in the matter of highways, agricultural extension work, and many other things have increased the work

until it would be practically impossible for one Representative to do what would be required of him. Situations might result in the case of death, for instance, where the people of a State with only a single Member would be without representation for months.

In the interest of good government the representation of no State should be reduced to one. I sincerely trust that in the disposition of this bill some way may be found to maintain the representation of the smaller States. Reapportionment must be made under the census of 1930. I am not opposed to that, but some way should be devised in the making of that reapportionment to care for all States situated as is Vermont.

My colleague [Mr. BRIGHAM], when this proposal was last before the House, offered an amendment which provides that where a State whose representation would be reduced to one shall have apportioned to it an additional Representative if its population exceeds by more than 75 per cent the average population per Representative for the United States, and to that extent the whole number of Representatives shall be increased accordingly. This amendment would affect but two States, and therefore add but two to the whole number of Representatives. This amendment would not do violence to the Constitution. My district is one of the largest in geographical area of any east of the Mississippi River, being 200 miles from one end to the other, extending from the Dominion of Canada on the north to Massachusetts on the south, a district of diversified interests and hard to represent efficiently. It would certainly be a calamity to leave the whole State with but one Representative.

THE METHOD OF APPORTIONMENT

It is proposed to use the method of major fractions in apportioning the Representatives under this measure, a method that has been used only twice in the whole history of reapportionment: This method is not approved by the Census Bureau or by the leading mathematicians of the country. The apportionment of Representatives to the population is a mathematical problem. Then why not use a method that will stand the test under a correct mathematical formula?

What is that test? Does it make both the ratio of population to Representatives and the ratio of Representatives to the population as nearly as may be in all the States? There is only one method that puts each State as nearly as possible on a parity with every other State, and that is the method of equal proportions, which is backed by the best mathematicians of the Nation.

It is true that the use of the method would not retain two Representatives for Vermont with the number in the House held at 435, as contemplated, but without regard to its effect we should authorize the use of such a method as will treat all the States on an even basis. The bill adopts what is practically a discarded mathematical formula and makes it part of the law of the land, so far as apportionment is concerned.

LEGISLATES FOR A FUTURE CONGRESS

The bill before us attempts to legislate for a future Congress on the basis of a future census. This bill proposes to provide for reapportionment under the census of 1930 and is anticipatory legislation. It attempts to hold a whip over a future Congress. Of course, the action which it is proposed to take is little more than a gesture, but nevertheless says to the Congress that will sit in 1930 that unless you make a reapportionment the Secretary of Commerce shall in effect make the apportionment. In that provision there is an imputation that Members of the future Congress will not possess as much intelligence and be as devoted to their duty as the Members of this Congress. It is assumed in this proposal that a future Congress will fail to do its duty. So far as this portion of the bill is concerned it is based on assumptions and imputations that are unwarranted and unjustified.

DELEGATION OF AUTHORITY

It proposes to delegate to the Secretary of Commerce the apportioning power if the Congress fails to act during its first session after the taking of the decennial census. It proposes to clothe this executive head with authority to say just how many Representatives may be allocated to each one of the several States under the provisions of the act. It is a conditional taking away from the Members of the Congress of the duty of apportioning the Representatives provided for under the Constitution and set forth as a duty of the Congress. The delegation of such a power as here contemplated is wrong in principle, though it be conditional—conditional, if you please, that a future Congress do its duty as this Congress conceives that duty. This bill practically gives to the Secretary of Commerce the authority to say how many Representatives the ten million or more of the people of the State of New York shall elect to represent them during the 10 years following the census of 1930. It is urged that such a provision is constitutional, but whether constitutional or not it is a step in the wrong direction in a republic where the powers of government are derived solely from the consent of the governed.

We have gone on from session to session delegating powers to bureau chiefs and departments that formerly rested with the representatives of the people. We are departing from the Government as conceived and established by the fathers, and through the operation of which this Nation has become the leader of the world. Bureaucracy is fast becoming the greatest danger to American institutions. If we keep on delegating authority to bureaus and departments, we may as well get along without Congress. This bill, if passed, will mark a long step toward the destruction of liberty in this country. Let us halt this advance into the danger zone before it is too late. We who deal with these bureaus in behalf of the people we represent know how they operate, many times in defiance of the will of Congress expressed in legislative acts. Our recent experience with the interpretation of the so-called Welch pay bill is an example in point. My experience has been such that so long as I may represent the people of my district I shall consistently vote against any further delegation of authority to any department or bureau. "Eternal vigilance is the price of liberty" to-day as much as it was when that statement first found expression.

CONSTITUTIONALITY

We have heard much about the faliure to apportion under the census of 1920 and failure to carry out the provisions of the Constitution. I challenge anyone to show where the Constitution makes an apportionment mandatory. The Members who have been shouting so loudly that we violated the Constitution in failing to apportion after the census of 1920 are the very ones who helped to prevent apportionment in 1921. We were wholly within constitutional rights when the bill was practically killed, for to have followed that census, taken as it was and at the time it was, would have worked a grave injustice.

INCREASED MEMBERSHIP

I am not afraid of an increased membership of this House. Notwithstanding the able argument of the distinguished gentleman from Ohio now a Member of the other legislative body in respect to a larger House when the matter was last before us, I am not convinced that a larger representation of the people would not make for better legislation and be a safeguard for the country. Witness, if you will, the effective work of this body as compared with some bodies of smaller size. But we are told that to increase the membership would make it unwieldy. The few gentlemen who now direct the course of legislation in this body seem to be getting results. Who doubts that their genius for organization and control would be extended over the House, however large its membership?

There is no widespread demand for this legislation at this time. We are not meeting the Constitution when we defer action until 1930. Rather we are giving legislative sanction to the claimed violation of that sacred document by deferring this apportionment until after the next enumeration. There is no rational excuse for this proposed legislation at this time, and we can render the country no better service than to defeat it. [Applause.]

Mr. RANKIN. Mr. Chairman, I yield to the gentleman from Kentucky [Mr. MOORMAN].

Mr. MOORMAN. Mr. Chairman, ladies and gentlemen of the committee, the Census Committee, of which I became a member in 1927, seems now to get some criticism because there has not been a reapportionment of representation in Congress since the census of 1920. If there was any unjustified failure to follow the spirit or mandate of the Constitution it was a failure of the Congresses immediately following 1920. If politics is any issue, these Congresses were all under Republican administrations. Failure to reapportion at the right time now confronts us with a serious and different situation, one to be dealt with as a matter of common sense and present expediency.

Those of us signing the minority report have even been accused of being obstructionists. We were not. We were convinced that this bill under consideration is unsound, unnecessary, and wrong. This body confirmed our position at the last session when it recommited the reapportionment bill to our committee. The pending bill means the same, in its essentials, as the one the House refused to enact into law. It is open to the same objections. This bill is not to now reapportion representation, but is to compel future Congresses to do so, or if they fail, to delegate the power to the Secretary of Commerce.

I regard this anticipatory legislation, the effort in this bill to bind a future Congress, as a dangerous precedent if fundamentally sound at all. It seeks to meet an emergency situation which might develop in 1930 or thereafter. Why not anticipate

that Congress will fail to perform a hundred other duties and functions and now begin legislating accordingly?

I desire to say that I recognize it to be my duty to vote for a reapportionment bill of the right kind, at the proper time. But any reapportionment based on the census of 1920 would be absurd, for the reason that another census upon which reapportionment can be better based is due in 1930. Also, it would be unfair for certain reasons, namely:

First. That the census of population was taken as of January 1, 1920, which was considered unfair to the rural districts, especially in the years following the close of the World War; and

Second. That the actual enumeration was not efficient.

Further, the census of 1930 is provided for in a bill that our committee recently unanimously reported out. It will have new and perfected features, provides for taking the census May 1, which is the time agreed upon by our committee when the actual population of the cities and rural sections can be most fairly ascertained, and, on the whole, it promises to be the most complete and dependable enumeration and statistical record of people and facts ever made. In this connection I would like to say there is some disposition to have the 1930 census taken as of November 1. Our committee was convinced that this would be another mistake. Road and weather conditions would prevent fair rural enumeration. This census is going to employ about 100,000 people, has many new features, and will cost about $40,000,000. It will reveal many facts that Congress should have before it is to intelligently consider a reapportionment bill, which is a matter of most vital importance to all of the States.

I respectfully invite your attention to the minority report, concurred in by nearly half of the Census Committee, as follows:

MINORITY VIEWS

We desire to submit briefly our reasons for opposing this bill.

In the first place it is practically the same bill that was rejected by this House on May 18, 1928. It has been slightly denatured by a few minor amendments.

This legislation is unnecessary, and is an attempt to bind a future Congress.

It does not propose to reapportion Congress under the census of 1920, but attempts to legislate for a future Congress, relative to a reapportionment on the basis of a census to be taken in 1930.

It also attempts to arbitrarily fix the size of the House at 435 Members without first taking into consideration the iniquities and injustices that might be avoided by adjusting the size of the House under the census of 1930 to take care of all of the States.

It proposes to lay down a formula, which they call major fractions, and which few Members of the House will understand and fewer still can explain.

It is proposed also to delegate the Secretary of Commerce the apportioning power, which is primarily vested in the Congress of the United States.

In case Congress failed to act at the first session after the taking of the decennial census the executive department charged with the duty of taking the census would also have placed in its hands the power of reapportioning the House of Representatives under that census.

The Department of Commerce seems to have tried the case in advance, as they have filed with the Committee of the Census a table showing their estimation of the number of Representatives each State will receive under the census of 1930. This forecast itself shows the inadvisability of delegating the power of reapportionment of Congress to the Department of Commerce.

Under the table prepared they show that, according to their estimation, if the method of major fractions is used to reapportion Congress after the census of 1930 is taken, the following States would lose the number of Representatives indicated:

Indiana, 2; Iowa, 2; Kansas, 1; Kentucky, 2; Louisiana, 1; Maine, 1; Massachusetts, 1; Mississippi, 2; Missouri, 4; Nebraska, 1; New York, 2; North Dakota, 1; Tennessee, 1; Vermont, 1; Virginia, 1.

Thus approximately one-third of the States would have their representation arbitrarily reduced without any opportunity to equitably adjust the size of the House to meet the then existing conditions.

In order to avoid the absurd and ridiculous situation in which the passage of this bill would place the Congress, we respectfully submit that it would be better to wait until after the taking of the census of 1930, and then have the House reapportion its membership according to that census.

Respectfully submitted.

J. E. RANKIN.
ARTHUR H. GREENWOOD.
RALPH LOZIER.
S. RUTHERFORD.
HENRY D. MOORMAN.
RENÉ L. DEROUEN.
JAMES M. FITZPATRICK.
LLOYD THURSTON.

Concerning this subject, I desire to say that I believe it should be the law that no alien shall be counted in the census enumeration of the number of people in each State. This would reduce to a fair basis city representation and have a tendency to check the drift of legislative power to population centers. Further, if a person does not think enough of the country in which he makes a living to become a citizen of it, he certainly should not be counted in determining the number of Congressmen or electoral votes of any State. There is a disposition to attribute to Representatives from States that will lose Congressmen, a desire to indefinitely postpone reapportionment. This idea is, I am impressed, largely without basis. Due to the unusual and unsettled conditions in 1920, following the war, and when many rural people were in the population centers and elsewhere, resulting in an admittedly unfair population enumeration, there has been much opposition to reapportionment on the basis of the 1920 census. However, Kentucky, under this bill, will lose two Members, based on the population estimated for 1930. Even the contemplation of this result arouses and warrants deep concern. The reduction of any State's present representation is disturbing sacred rights. I do not believe the present number of Representatives of any State should be reduced. The result of reapportionment on the remaining districts of a State are sometimes almost as important as the loss of Members. I also believe this anticipatory feature of the proposed legislation is fundamentally unsound and that the bill is altogether unwise. It amounts to a surrender by Congress of more of its powers, and is the unnecessary delegation of its duties and rights.

The imputation that a future Congress, with all the facts of the new and complete 1930 census before it, can not or will not know or do its duty, or that such a Congress will not possess as much intelligence or integrity as this one, I think, is unwarranted. I believe that practically every Member of this House, under the Constitution and his oath, feels largely as the majority indicates, in the following words:

The committee is strongly of the opinion that the failure to reapportion is a violation of the spirit, if not the letter, of the Constitution. It holds the view that no section of the Constitution is more fundamental to our Government than this section. Without its observance, representative government becomes a sham.

As to limiting the number in the House to 435, I understand the corresponding branch of the German Government has 493 members, the French Government 580 members, and the English Government 615 members. By the increase of our membership to a body approximately the size of the smallest of these, all States could be saved the loss of present representation. The House would be but little more unwieldy than it is at present, if any more so at all. The comparison of the legislative records of the United States Senate, with only 96 Members, with that of the House, with 435, would indicate no loss of efficiency by the suggested increase in our numbers. Further, there is a drift of population, and consequently of legislative power, to the cities. The loss of Members under this bill will be greatest to rural sections and the gains largely to the population centers. This tendency is worthy of our careful consideration. [Applause.]

Mr. FENN. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. LAGUARDIA].

Mr. LAGUARDIA. Mr. Chairman and gentlemen, it so happens that I come from a State that in all likelihood will lose one Member from its delegation. My colleagues, who are familiar with my political irregularities, know, and it will require no stretch of the imagination to prophesy, which district will be eliminated. [Laughter.]

Nevertheless, I can not see how anyone believing in the fundamental principles of representative government can vote against any kind of a bill that will remedy the existing conditions. If the State of Michigan and the State of California have so grown in population as to be entitled to a greater proportionate representation in this House, they must be given such representation, and the people of those States and other States should not be deprived of their due proportionate representation in the House of Representatives. [Applause.]

A great deal has been said about tying the hands of future Congresses. Read the debates of the Constitutional Convention and you will find that it was their intention to make reapportionment mandatory every 10 years. They feared that if the matter was left to the discretion of future Congresses that selfish reasons might prevent action. In providing for an enumeration every 10 years the framers of the Constitution intended and believed that they were providing a mandatory reapportionment every 10 years. A reading of the debate of the Constitutional Convention on this very question can leave no doubt as to that intent.

Mr. MOORE of Virginia. May I ask the gentleman a question there?

Mr. LAGUARDIA. I yield.

Mr. MOORE of Virginia. And does the gentleman not think it clearly indicated by the convention proceedings that Congress should delay reapportionment until after it got hold of the census?

Mr. LAGUARDIA. In answer to that, permit me to read what another distinguished gentleman from Virginia said:

> Mr. Randolph was apprehensive that, as the number was not to be changed until the National Legislature should please, a pretext would never be wanting to postpone alterations and keep the power in the hands of those possessed of it.

He, too, was a very distinguished gentleman from Virginia. Again, as to the "tying of hands of future Congresses," Mr. Randolph says:

> If the legislatures are left at liberty, they will never readjust the representatition.

How prophetic!

Mr. Hugh Williamson, of North Carolina, in the Constitutional Convention said:

> It is the duty of the legislature to do what was right and not leaving it at liberty to do or not to do it.

Then, again, Mr. Randolph, quoting Montesquieu—and I have often heard the distinguished gentleman from Virginia [Mr. MOORE] quote him on the floor of this House—says:

> If the danger suggested by Mr. Gouverneur Morris be real, of advantage being taken of the legislatures in pressing moments, it was an additional reason for tying their hands in such a manner that they could *not sacrifice* their trust to momentary consideration.

That is exactly what we are doing in this bill.

Mr. MOORE of Virginia. Mr. Chairman, will the gentleman yield at this point?

Mr. LAGUARDIA. I have only a moment. It is clear that the very trouble that we are now confronted with—that of local conditions, momentary consideration; that of personal interest; that of losing a seat—was before the Constitutional Convention, just as it is before us now, and if past Congresses had performed their duty we would not be vexed to-day with the very objections in the bill that the gentleman from Virginia suggests. It is because of the failure of past Congresses, the unpardonable failures, that we are sitting to-day in a body constituted not in accordance with constitutional requirements. The gentleman from Virginia [Mr. MOORE] believes too much in representative government to want to be a member in any legislative body that is so out of proportion, that is so manifestly unfair by reason of the drift of population as in a body perpetuated in its disproportionate representation by the culpable failure of past Congresses to act in accordance with a clear mandate of the Constitution.

Mr. MOORE of Virginia. I was going to suggest to my friend that while we may have flouted the Constitution in not making an apportionment on the basis of the last census, that is no reason why we should further flout the Constitution by enacting anticipatory legislation now.

Mr. LAGUARDIA. I have read what the founders suggested in taking the necessary steps and safeguards and tying the hands of future legislatures so that we will not leave it at their pleasure, and if future Congresses should be as derelict as past Congresses, then we simply provide automatically for proportionate representation. That is what the Constitution intended. That is what we are doing. Future Congresses are not having their hands tied. Future Congresses are not prevented from acting in accordance with their constitutional prerogatives. Future Congresses are only prevented from flouting the Constitution and destroying real representative government by their failure to act. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. RANKIN. Mr. Chairman, I yield 10 minutes to the gentleman from Vermont [Mr. BRIGHAM].

Mr. BRIGHAM. Mr. Chairman, in the Senate committee report on the apportionment bill of 1832 Senator Webster indicated the interesting and delicate nature of the proposed legislation because, as he said, "It is to determine the number of voices which, for 10 years to come, each State is to possess in the popular branch of the legislature." The apportionment bill of 1832, however, assigned to each State, after a careful study of all the facts, a definite number of Representatives. The bill we have before us now does not do this, but provides that the Congress shall delegate to the Department of Commerce the task of apportioning 435 Representatives among the several States according to a formula known as major fractions. If the Congress fails to legislate further in regard to apportionment, then forever after the Department of Commerce will apportion to each State the Representatives to which it is entitled according to the formula set up. In view of the conflict of interests between the several States in this matter, we may confidently predict that the method set up in the bill will in the future be the method of apportionment following each census, and will determine, not for 10 years but for all time, the number of voices each State is to have in this House. It is important then that we examine carefully how such a method of apportionment will stand the test of doing justice to the several States.

We can perhaps agree that an ideal apportionment would result in having each Member of the House represent the same number of constituents and in having each State possess its rightful share of the representative power in this House.

If we divide the number of population of the United States in 1920 by 435, the number of Representatives, we have 241,867 persons as the average constituency for the United States. The test of the fairness and justice of a method of apportionment is the degree which it causes constituencies in the several States to depart from this average. Furthermore, if 435 Members is the total representative power of the House, each State should have apportioned to it that share to which it is entitled by its population.

In the RECORD of January 8 I inserted a table which shows the departure from the average which exists now without reapportionment and the departure which would exist had reappointment been made following the completion of the Census of 1920. If you examine this table you will find the greatest departure from the average does not exist now in the States of California or Michigan but in the case of the State of New Mexico. Each Representative from California now has 69,590 persons more than the average and each Representative from Michigan now has 40,317 persons more than the average, while the single Representative from New Mexico has 111,561 persons more than the average. Compared on the basis of the share in the representative power, California has less than ten times the population of New Mexico, but California now has eleven times the representative power of New Mexico.

The Webster report points out that no number of Representatives will exactly correspond with the precise share of representation which belongs to a State according to its population. Then says the report—

> That which can not be done perfectly must be done in a manner as near perfection as can be.

Well, let us assume this bill we are now considering had been a law in 1922. What would have happened? New Mexico would still have one Representative and that Representative would still have 111,561 persons more than the average for the United States while California would have three more Representatives added to her quota and would have fourteen times the representative power of New Mexico with less than ten times New Mexico's population. Do you think this is fair to New Mexico? Is reapportionment done in that manner "done in a manner as near perfection as can be"?

But with reapportionment made on the basis of this bill and the 1920 census, New Mexico is not the only State similarly affected. My State of Vermont would be left with one Representative who would represent an average constituency and 110,561 persons additional. So many of my Michigan friends have mildly reproached me for not supporting this bill that I will take a moment to compare the situation of Michigan and Vermont. As the situation is now, each Michigan Representative has a surplus of 40,317 persons. With reapportionment, the Representative from Vermont would have a surplus more than two and one-half times that which Michigan now has. Furthermore, on the basis of population, Michigan should have here in this House less than eleven times the representative power of Vermont while this bill would give her fifteen times Vermont's representative power. I would like to ask my friends from Michigan if they think I would be doing my duty as a Representative to support a bill which would do such an injustice to my State?

Mr. HUDSON. Mr. Chairman, will the gentleman yield?

Mr. BRIGHAM. Yes.

Mr. HUDSON. I suppose the gentleman is using the 1920 census there?

Mr. BRIGHAM. Yes.

Mr. HUDSON. But the gentleman must remember that if the census were taken to-day it would materially change his averages.

Mr. BRIGHAM. I am using this as a basis of illustration; and I will say to the gentleman further that I agree that some reapportionment should be made, but we disagree as to the method of making it.

Mr. RANKIN. And if a thorough census were taken that might not be the case.

Mr. BRIGHAM. Yes; a situation might arise perhaps not with reference to Vermont and New Mexico but with respect to another group of States that had a little larger population.

The question is then, What method of reapportionment can be substituted for the method of major fractions which will come nearer to standing the test of perfection? If the House is held to a membership of 435, the method of equal proportions is one which will better stand the test of fairness and equality of distribution of the representative power than the method of major fractions contained in this bill. This method is approved by the advisory committee to the census and is approved by many of the leading authorities of the country. This method has no bias in favor of larger or smaller States but does as nearly as possible exact justice to each. From the political standpoint, on the basis of the 1920 census, this method has the disadvantage of taking away a Representative from each of three States having among them 64 votes in this House, and gives three votes to three States having a total of 6 votes. This is, of course, a great handicap for any method to carry.

The method of equal proportions applied to the 1920 census population distribution would result in taking from New York one Representative and would give one representative to Vermont. Now, let us test the fairness of such a procedure from the standpoint of number of constituents per Representative and a fair distribution of the representative power. New York had approximately thirty times the population of the State of Vermont in 1920. The method of major fractions provided for in this bill would give New York 43 Representatives and Vermont 1. Therefore New York would have forty-three times the representative power of Vermont, with thirty times the population. The equal-proportions method would give New York 42 and Vermont 2. New York would then have twenty-one times the Representative power of Vermont and would approach nearer her just share of 30 than would be the case if she had forty-three times the representative power of Vermont. Furthermore, the adoption of the major-fractions method would result in assigning to each New York Representative a constituency of 449 persons less than the average for the United States and for the Vermont Representative 110,561 persons more than the average. The equal-proportions method would make the New York constituency 5,299 persons more than the average and the Vermont constituency 65,653 less, which deficiency comes nearer the average than the surplus of over 110,000.

Surely on the ground of fairness and exact justice the method of equal proportions is the preferable one.

This legislation we are asked to pass now is anticipatory. No results will come until the outcome of the 1930 census is known. In my opinion, it would be better to wait and base action upon a definite set of facts and try to do as nearly as possible exact justice to all the States. If you look up the history of apportionment, you will find that one of the major disputes has been over giving Representatives to fractions. President Washington vetoed the apportionment bill in 1792 because Representatives were assigned to some States having the largest fractions of the quota entitling them to a Representative. Mr. Jefferson gave it as his opinion that fractions must be neglected because the Constitution has left them unprovided for. Story in his Commentaries on the Constitution says:

> If a fraction admits of representation in any case, what prohibits the application of the rule to all fractions?

This question he answers by saying:

> The only constitutional limitation seems to be that no State shall have more than one Representative for every 30,000 persons.

A Representative has been assigned for a minor fraction when by so doing more exact justice was done. It seems to me that Senator Collamer, in the debate of 1862, laid down the correct principles. He said:

> Mr. President, by what power and right and principle is it that you give Representatives to fractions at all? I take it, it is because in giving them to the fractions you approximate nearer to the Representative ratio. Then you ought to give representation to each State so long as by giving it they will be nearer to the representative ratio than they will be by withholding it.

This would seem to me to be the fair and just principle.

I am aware that there exists in the country and in this House a feeling that the membership should be kept at 435. There are arguments on both sides of this question. Perhaps any great enlargement is not desirable. But I think it is not so important to hold to this exact number as it is to add a few Members, if by doing so justice can be done to some States that will be found to fall short of having their fair share of the representative power and that will be found to have districts which depart widely from the average. In 1920 two States were so affected. In 1930 the distribution of population may be such that these States will not be affected, but another group will. Reapportionment in my opinion should be made immediately after taking of the 1930 census and should be made by Congress on the basis of the facts disclosed by that census. [Applause.]

Mr. RANKIN. Mr. Chairman, I yield five minutes to the gentleman from Kentucky [Mr. GILBERT].

Mr. GILBERT. Mr. Chairman, ladies and gentlemen, this bill is no reapportionment bill at all. It presents two proposals, one of them foolish and the other vicious. With all deference and apologies to the able gentlemen who have spoken in favor of it, I submit that they have argued in favor of a proposition that is not before the House and one against which they voted when it was formerly and properly before the House. The first and foolish proposal is that we intrude ourselves into the legislative duties and prerogatives of a future Congress. The second and vicious proposal is that we cowardly surrender our constitutional duties to an executive department. For instance, the gentleman from New York [Mr. LAGUARDIA], and I shall use his sentence as typical of the arguments in favor of the bill, said that he did not see how any Member of the House could refuse to vote for a bill which would remedy the condition existing. This bill does not remedy that condition and is not intended to remedy any condition. In fact, if I were to ask the author of this bill what its purpose is he could not answer the question. It does not attempt to do anything, but merely anticipates that a future Congress will not do its duty, and in that event it provides certain machinery to answer for the neglect. It is termed a "reapportionment bill," but it is not even attempted by the bill to reapportion.

If this is a wise bill then let me submit it would be wise upon its adoption for the Legislature of the State of Texas, for instance, a State that gains two Members by virtue of the reapportionment, to meet and anticipate that the legislature that met after the reapportionment would not subdivide the State into districts as the law provides, and in order that no embarrassment would arise when Texas received its additional representation, the Texas Legislature would provide for the secretary of state of that State to proceed to make a division which would apply in the event that the Legislature of Texas, following the apportionment, failed to make such a division. This is laughable, yet a reasonable sequent. The gentleman from Pennsylvania [Mr. GRAHAM] said he would support the bill as one step in the direction of apportionment. Well, in all sincerity, why not go the whole course if the step is well taken and any duty involves upon us? Why not reapportion in full if not too late, and, if too late, why take any steps? You are fooling the country merely. You neglected to reapportion when you should have. It is ridiculous to do it this late and in the face of another census. So this is merely a face-saving futility. The truth is that following the 1920 census the gentlemen, or most of them, who are here vociferously advocating this procedure were willing to let their views as to the size of this House defeat the constitutional requirement of reapportionment. Rather than permit a larger House they voted to recommit the bill discharging their constitutional obligation. They blocked the constitutional requirement, because, foresooth, the House was to be larger than they in their judgment deemed it wise. The vicious part of the bill is the delegation of authority by this Congress of one of its most important prerogatives to an executive bureau. It may be but a short step, but it is a step in the wrong direction. I have always been in favor of reapportioning this House and favored a smaller House. I favor somewhere about 350 Members, but I was never willing to let my own individual views as to the size of the House defeat a constitutional requirement of reapportionment upon fair percentages, which gentlemen who are so insisting upon the passage of this bill did do.

Mr. FENN. Mr. Chairman, I yield five minutes to the gentleman from New Jersey [Mr. FORT]. [Applause.]

Mr. FORT. Mr. Chairman, there are two purposes of making an apportionment of Members of the House. One of those is to determine how many Members there shall be in the House. The other is to determine how many votes shall be cast by each State in the Union in the Electoral College for the selection of a President of the United States. In the determination of that latter fact, it seems to me no Member of the House has the right or the duty to consider the personal equations of friendship which might otherwise largely affect his action on a matter that involved only the reapportionment of the membership of this body.

The rights of the small States under our form of government are entirely and absolutely protected by the membership of two

in the Senate which goes alike to Nevada with 77,000 population and to New York with 12,000,000 population. The smaller States can not be deprived of their full voice and their power in this Government. In the passage of legislation they are as potent in the Senate as the largest State.

But when we come to the Electoral College, what do we now find? We find that the State of Nevada has 3 votes, or 1 vote for the President of the United States for every 25,000 citizens. And we find the State of California on the basis of the estimates as to what will prevail in 1930 has 1 vote for President to every 365,000 inhabitants. I do not personally favor the method which many do of electing the President of the United States by popular vote. I believe in the preservation of the right of the State to express itself as a State in such an election.

But certainly it can not be contended that there shall still be attributed to each State its two votes for its two Senators and then a disproportionate vote for its Members in the House.

Now, if the next Congress does not revise the present apportionment, the next election for President of the United States will be upon the present existing basis. Take, for example, four States of somewhat similar size. If we retain the present apportionment, the State of Massachusetts—to which honor is due for its support of this legislation despite the loss of a Member—will have one vote for each 242,000 of its citizens in the choice of a President; the State of Texas will have one for each 281,000 of its citizens; the State of Michigan will have one for each 317,000 of its citizens; the State of California will have one for each 365,000 of its citizens. If we reapportion on the basis that it is estimated this bill will work, the State of Massachusetts will have one for each 257,000 of its citizens; the State of Texas one for each 256,000; the State of Michigan and the State of California one for each 250,000 of their citizens. Under the present apportionment 123,000 more citizens are required to give California an electoral vote than in Massachusetts. Under the new system the entire range in those four States will be a matter of 7,000 citizens only. [Applause.]

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Mr. FORT. I could use two additional minutes.

Mr. FENN. Mr. Chairman, I yield to the gentleman from New Jersey two additional minutes.

The CHAIRMAN. The gentleman from New Jersey is recognized for two additional minutes.

Mr. FORT. Now, the difference it makes is this: That proportionately it takes 1,600,000 more people in California to produce the same effect on the election of a President of the United States than it takes in Massachusetts.

Mr. LOZIER. Mr. Chairman, will the gentleman yield?

Mr. FORT. I regret I can not. I have only two minutes.

Now, what are we really doing in this bill? We are fixing the membership of the House at 435 in case the next Congress does not fix it at some other figure. That is where it stands to-day, exactly as it would stand if we passed no bill, 435 Members; so that there is no change in the existing law.

We are adopting the system of major fractions, the system under which we now hold our seats. We therefore are reannunciating the principle of a House of 435 Members chosen on the major-fractions basis, but we are also saying to the next Congress that "unless you, prior to the election of 1932, certify to the States a different basis for electors and Members of the House of Representatives, then the purely mathematical computation provided for in this act will be the basis for the membership." [Applause.]

Mr. RANKIN. Mr. Chairman, I yield three minutes to the gentleman from Louisiana [Mr. O'CONNOR].

The CHAIRMAN. The gentleman from Louisiana is recognized for three minutes.

Mr. O'CONNOR of Louisiana. Mr. Chairman and members of the committee, I come from a State that will lose one Member if this bill is enacted into law. I protest.

Since when has it become unreasonable or unjust or unpatriotic for a Member from a State about to lose a Member to protest against such a proposed act? If I remained silent, it would not be complimentary to this body. And what reason is there for 435? What mystery, what magic, lurks in that charmed number? What voodoo hangs over us by reason of which this House has refused to consider a basis that would do justice to all the States, including those that have increased largely in population? What mystic or occult spell lies in these numerals or their combination which prevents the adoption of a basis that will maintain the representation of proud old American commonwealths and at the same time do justice to those States which have increased in population by giving them additional representation? In other words, why not increase the number from 435 to that number which will meet the desirable situation I have suggested when the proper time arrives to pass such an act? If the Constitution has been flouted by Congress not passing an apportionment subsequent to the census of 1920, its failure is not condoned by passing an apportionment act which is to be based on the 1930 prior to the taking of that census. The argument is made that the House is cumbersome and unwieldy. When did it become cumbersome? Under Cannon? When did it become unwieldy? Under GILLETT? Under LONGWORTH and TILSON? Why, your discipline on that side—the Republican side—was never known in the Roman legions. [Laughter and applause.] Appropriations here running to $700,000,000 have been considered and voted in less than 24 hours, with an expedition that might be termed rapidity; and yet we are told in solemn tones about the unwieldy character of this body. Solemnity of tone always suggests a superior brand of patriotism—maybe. Business is transacted in this House with such a celerity of movement that no parliamentary body in the history of the world can equal its magnificent record, if you can call such a performance magnificent. [Laughter.]

This body has a smaller membership than the Chamber of Deputies, and a smaller membership than the House of Commons, and is less in number than the Reichstag was under an almost autocratic form of government. Why, gentlemen, why should we be bound by what apparently lies in the charmed number 435? What is the occult influence that has hovered over those who stand immovably behind this bill? I can understand "Pikes Peak or Bust," but the impenetrable occultism, mysticism, and magic is far beyond my ken. It is a puzzle I can not get through. Tear the flag if you must, trample the Constitution under foot, but under the peril of losing your immortal soul do not touch 435! That number is the Ark of the Covenant, and if you dare touch it you will share the fate of Uzzah and drop dead, or worse. What baleful influence lies in that number. It has the sinister influence of the jettatore or evil eye upon its blind votaries who are under its power. Here you have a House trained and disciplined to act in accordance with the rules, precedents, and established customs and in obedience to the command of the apostles of this House. [Applause.] No one on the Republican side will get off the reservation. A recent bitter experience on the part of several has taught them obedience and docility. They were made to do penance—wear sackcloth and endure and suffer aches before they were permitted to even come near the cloistered political precincts of a caucus. And the Democrats, free and untrammeled, offer only such opposition as the parliamentary exigencies and requirements demand, as we recognize that the responsibility of reasonable legislation lies upon the majority party. Our duty is to constructively criticize proposed Republican measures and assist in making for orderly and efficient procedure, and this obligation we have discharged in accordance with the ethics and the best traditions. So that at no time has there been evidenced any cumbersomeness or unwieldiness. Again, it is well to remember that Congress has become largely a recognitory body, giving recognition to the findings of committees. It is as true of the House as of the other body.

A few days ago a very important matter was decided in the Committee of the Whole House which had under consideration the War Department appropriation bill by a vote of 24 to 14. Many Members were at committee meetings, many were in their offices. In perfect candor it may be stated also that there were more Members present than those figures express. There may have been a hundred or more, but that vote expressed the majority opinion, for if it were otherwise a point of order would have been made that no quorum was present. And it may also be well to remember that as a result of the enormous increase in our population and the consequent expansion of governmental activities the average Congressman has become not only the representative of the entity known as the congressional district, but also the attorney in fact of the individuals of his constituency and is the medium of communication between the men and women he represents and the various branches of government that Congress has created, many of which threaten the same fate to their creator that the monster created by Frankenstein consummated to the author of its existence.

But as some one has said, Congress has survived all of its critics; and as long as the American people believe and want representative government, just so long will they want adequate representation that will meet the enlarged and growing needs of an expanding country, and will not heed the cry of those who consciously or unconsciously hearken to the voice that comes from the pillared palaces of privilege and wealth rather than turn the ear to the appeal that comes from the cottage, rural and urban. Of course we all believe in equal representation, but we do not all believe in adequate representation. These whispered mutterings and Solomonic expressions, accompanied by sagacious looks and suggestions of a lofty patriotic purpose, corrugating their brows, in good, plain, unadulterated

American, is the bunk. Let us beat this bill, and when it is in order pass a bill that will give full representation to every State without doing violence to the acquired rights of States whose people have written many of its most brilliant pages into the history of our country. Because 12 ounces make a pound, according to the apothecary weight, or 12 eggs make a dozen, or 12 inches make a foot, or 12 men and women make a jury, or the zodiac has 12 signs, is no justification for determining that 435, which makes a combination of 12, should be the Procrustean bed upon which grand old States that were of us from the beginning and sister States that endured the shackles of 1812 and marched arm in arm in 48 should be mangled to fit its monstrous measurement.

Mr. RANKIN. Mr. Chairman, I yield 10 minutes to the gentleman from Iowa [Mr. KOPP].

The CHAIRMAN. The gentleman from Iowa is recognized for 10 minutes.

Mr. KOPP. Mr. Chairman, while there is no direct mandate in the Constitution that the country shall be apportioned every 10 years, I concur in the view that there is an implied duty to do so. I can not agree, however, that the bill now before us is consistent with the Constitution, and I can not support the bill because it does not follow the path marked out by the Constitution. The proponents of this bill seek to perform a constitutional duty in an unconstitutional manner. They profess great veneration for the Constitution but wholly disregard it in this bill.

As it appears to me, the duty of Congress under the Constitution is as follows:

First. To provide for taking the census once every 10 years.

Second. To make an apportionment of the Representatives among the States during each 10-year period, said apportionment to be made as soon after the taking of each census as may be reasonably possible.

The opponents of this bill have been charged with a desire to defeat reapportionment under the 1930 census. This charge is wholly false and groundless. Everybody concedes and agrees that when the 1930 census has been taken a new apportionment shall be made. No Member of this House, as far as I know, has ever suggested the contrary, and I am very sure that none ever will. The opponents of this bill not only want to make an apportionment after the next census, as required by the Constitution, but also want to make that apportionment in the manner pointed out by the Constitution. They do not believe in following the Constitution on one point and at the same time violating the Constitution on another.

Apportionment of the House was not made after taking the census in 1920, but not because anybody questioned the duty of Congress to make such an apportionment after each census. In fact, the RECORD will show that practically every Member of this House voted for a reapportionment. It is well known that the reason a reapportionment bill was not agreed upon after the 1920 census was because that census was believed to be unjust to some of the States. The 1920 census was taken just after the war, while many were still away from their homes and before the population of the country had become stabilized. Men in high positions, whose sincerity and knowledge could not be questioned, stated that said census was not fair to the agricultural States. No such objection can or will be made to the census of 1930. That there will be a reapportionment in 1930, even if this bill does not pass, there is not the slightest doubt. The talk about this being a critical situation and that if this bill is not passed now no reapportionment can be made for years to come is wholly without justification or excuse and an unwarranted reflection upon the integrity of the Members of this House.

The Constitution provides that an apportionment shall be made after the taking of the census, but this bill comes up for consideration before the taking of the census. In answer, it is said that by passing this bill we will not make an apportionment but will simply provide for the Secretary of Commerce to make an apportionment after the results of the 1930 census are known. To the objection that Congress alone is empowered by the Constitution to make the apportionment and that this legislative duty can not be delegated to the Secretary of Commerce or any one else, it is urged that under this bill the duties of the Secretary of Commerce will be simply ministerial. So much has been said upon this point, pro and con, that I shall not dwell upon it at any length, but I do want to make a brief reference to it.

There are different ways of figuring when you endeavor to distribute a certain number of Representatives according to population. The Constitution does not indicate which particular method shall be used. No one, I take it, would contend that if the Secretary of Commerce determined the method of figuring, he would simply be performing a ministerial act, for such would not be the case. Different results are obtained by different methods and if the Secretary of Commerce could choose the method he could affect different States favorably or unfavorably by his choice. It is claimed, however, that this bill fixes the method when it says that the apportionment shall be made "by the method known as the method of major fractions."

That provision in the bill, however, does not fix the method, for there are different methods of major fractions, and the results obtained by using these different methods of major fractions are not the same.

On pages 9 and 10 of the report of the Census Committee on this bill we find the following statement:

METHOD OF MAJOR FRACTIONS

The method known as the method of major fractions is provided for in this bill and prescribed for the Secretary of Commerce in making the apportionment tabulation. This method was used in 1840 and also in 1910.

The learned gentleman from New York [Mr. JACOBSTEIN] is a member of the Census Committee and is an authority for the proponents of this bill. He confirms the report of the committee by his statement in the House. I quote from the RECORD:

Mr. JACOBSTEIN. Major fractions were used in 1840 and in 1910 and recommended in 1920.

We are told in the report of the committee that the method of major fractions was used in 1840. We are also told this by the gentleman from New York. But the method of major fractions used in 1840 was not the same as the method of major fractions used in 1910. In 1910 the method of Prof. Walter F. Willcox was used. But Professor Willcox had not been born when the 1840 apportionment was made. The gentleman from New York [Mr. JACOBSTEIN] concedes that the methods are not the same, although both are methods of major fractions. He says Professor Willcox's method of major fractions was "developed in its present form by Prof. Walter F. Willcox." Professor Willcox himself says that he developed it after 1900.

It is very clear, therefore, that Professor Willcox's method of major fractions is not the same as the method of major fractions used in 1840. I agree, however, that the method used in 1840 was a method of major fractions. It was different, however, from the method of Professor Willcox. Another prominent advocate of this bill, but not a Member of this House, has referred to the Willcox method of major fractions as "a refinement of the 1840 method, as improved under the auspices of Prof. Walter F. Willcox." So no one can claim that the method of major fractions used in 1840 was identical with the method of major fractions favored by Professor Willcox, and all must concede that the results obtained by these two systems are not identical.

Major fractions are not a new thing. In 1832 Daniel Webster made a study of major fractions in connection with reapportionment. He made a lengthy report and outlined a method of major fractions which he favored for reapportionment. He referred to the method outlined by himself as a method of "major fractions," but that method of major fractions is different from the method of Professor Willcox.

So we have different systems of major fractions. The one used in 1840 and the one used in 1910 and the system of major fractions outlined by Daniel Webster. As far as I know, mathematics and figures and fractions have not changed. The method of major fractions used in 1840 is still a method of major fractions. The method of major fractions outlined by Daniel Webster in his report is still a method of major fractions. It will hardly be claimed that Daniel Webster did not understand the use or meaning of the English language and that he referred to his method as one of major fractions when it was in fact not such. Daniel Webster, I believe, is still good authority. So there are at least three methods of major fractions, and there may be others. It is said, indeed, that there are others. In any event, we certainly have three different methods of major fractions, and these methods do not have identical results; and therefore the number of Representatives a State may have under an apportionment may depend upon which system of major fractions is used in working out the apportionment. Under the language of this bill, then, it is left to the Secretary of Commerce to determine which method of major fractions he will use, and his discretion in choosing the method may affect some States favorably and other States unfavorably.

This matter could not be remedied by designating the method as "the Willcox method of major fractions," for the professor might change his mind. He might "refine" and "develop" some more. By 1940 he might have an entirely new method of major fractions.

I do not question the right of Professor Willcox to refer to his method as one of major fractions, but he can not restrict the

use of figures and can not by his fiat obliterate other methods of major fractions. The system used in 1840, which did not have the benefit of the "refining" and "developing" of Professor Willcox, is just as much a method of major fractions to-day as it was then. The method of major fractions outlined by Daniel Webster is just as much a method of major fractions as it was then. These methods will exist during all time. You can no more blot out these methods than you could blot out the multiplication table. To choose the particular method is a legislative duty, and that duty can not be delegated. Under this bill the Secretary of Commerce must choose a method of major fractions, and the exercise of such discretion is certainly not a ministerial act.

But for the time being let us assume that the Willcox method of major fractions is the only known method of major fractions; and that the Secretary of Commerce therefore will not need to exercise discretion and select a method of major fractions. The duties of the Secretary of Commerce being purely ministerial, according to the proponents of this bill, he of course can not change the Willcox method of major fractions in the slightest degree. He can neither add to it nor subtract from it. He must use it just as it was made by Professor Willcox. Let us then ascertain just what the Willcox method is. But before doing that let us look at the bill for a moment. On page 2 of this bill we find the following language:

By apportioning 1 Representative to each State (as required by the Constitution) and by apportioning the remainder of the 435 Representatives among the several States according to their respective numbers as shown by such census, by the method known as the method of major fractions.

The Constitution of the United States contains these provisions, which are pertinent at this point:

(a) Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. * * *

(b) But each State shall have at least one Representative.

It seems to be generally conceded that the language of the bill set out and the language of the Constitution set out are not in harmony, and that the bill is in conflict with the Constitution.

I understand that an amendment will be offered, the effect of which will be to make said clause of the bill read substantially like the constitutional provisions.

While the purpose of the amendment will be to cure the vice pointed out, unfortunately that purpose will not be accomplished, still assuming that the Willcox method is the only known method of major fractions. If the Willcox method of major fractions is the only known method, then the use of the Willcox method will be mandatory upon the Secretary of Commerce, for the bill says that the apportionment must be made by the method known as the method of major fractions. The Willcox method, however, contains the very vice which it is the intention to eliminate by the aforesaid amendment.

In other words, the vice is incorporated in the bill twice; once by express language, which it is the intention to eliminate by amendment, and once by directing the use of the Willcox method. As the Willcox method seems to be very imperfectly understood, I want to insert an accurate and authentic description of it in the CONGRESSIONAL RECORD. First I shall refer to page 10 of the report of the Census Committee, where an explanation is given of the Willcox method of major fractions. I now quote the language of the committee:

The following procedure is used when this method is applied: Each State is assigned 1 Member, as provided for by the Constitution, which makes 48. The remainder, 387 (435 less 48), is then assigned to all the States in the following manner: The population of the several States is divided successivley by 1½, 2½, 3½, etc. These numbers or quotients are then set down in the form of a series, the highest number first, the next highest second, the next highest third, and so on, down to the lower numbers. The number which is first or highest on the list has allocated to it the forty-ninth Representative; the next highest on the list is given the fiftieth Representative, the next the fifty-first, and so on, down until you come to the point at which you desire to stop. In this bill it would be at the number of 435.

I refer to another high authority, Doctor Hill, Assistant Director of the Census Bureau. This is his statement on the Willcox method of major fractions as it appears on page 73 of the hearings of the Census Committee held during the Sixty-ninth Congress:

METHOD OF MAJOR FRACTIONS

Process followed:

(1) Here, as in the method of equal proportions, the first step is to assign 1 Representative to each State, making 48 in all.

(2) The next step is to divide the population of each State by the following quantities in succession: 1½, 2½, 3½, etc.

(3) The quotients thereby obtained are then arranged in order of size, beginning with the largest and continuing the process until the total number of quotients plus 48 is one greater than the number of Representatives to be apportioned.

(4) The next step is to divide the population of the several States by a number midway between the last two quotients in the list.

(5) The last step is to assign to each State a number of Representatives equal to the whole number in the quotient which was obtained for that State by the above division plus one more Representative in case the quotient contains a major fraction.

Thus when we get through we will find ourselves in the peculiar position of having rejected a provision in the bill as unconstitutional and at the same time having approved the same provision, by making it mandatory that the Willcox method of major fractions be used.

We shall find ourselves in this dilemma: If the Willcox method is not the only known method of major fractions, then the Secretary of Commerce under this bill must exercise discretion and must determine which method of major fractions shall be used. The exercise of such discretion would clearly be unconstitutional. If the Willcox method is the only known method of major fractions, then the Secretary of Commerce will be compelled to use a method containing a provision which I am sure this House will hold to be unconstitutional. From this dilemma there is no escape. In either event the Secretary of Commerce must do an unconstitutional act.

I now want to refer briefly to a proposition very ably discussed by my colleague from Iowa [Mr. THURSTON]. Under the Constitution apportionment is more than simply a distribution of Representatives among the States according to population. Apportionment can not be made merely a ministerial function by any anticipatory legislation that Congress may enact. The Constitution of the United States makes that impossible. It has been claimed that a similar act was passed in 1850, and that said act was a precedent and authority for this bill. Without discussing the act of 1850 in any way, it is sufficient to point out that the constitutional provision relating to apportionment in 1850 was entirely different from the provision on that subject now in the Constitution. In 1850 the constitutional provision as to apportionment read as follows:

Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons.

That provision was superseded in 1868 by section 2 of the fourteenth amendment, which I also set out:

SEC. 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof is denied to any of the male inhabitants of such State, being 21 years of age and citizens of the United States, or in any way abridged, except for participation in rebellion or other crimes, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens 21 years of age in such State.

It will be noticed that said section 2 consists of two sentences. This bill takes cognizance only of the first sentence and wholly ignores the second sentence. It assumes that nothing is taken into consideration in making an apportionment except population and that the first sentence entirely covers the question of apportionment. If so, why was the original section on apportionment superseded? If section 2 is to be given such a construction, then it was wholly unnecessary to have the amendment. The first sentence of said section 2 is identical in effect with the original provision on apportionment. The wording of the original provision was somewhat different on account of slavery which then existed, but slavery had been abolished before the fourteenth amendment was adopted, and after the abolition of slavery the effect of the original provision on apportionment was exactly the same as the effect of the first sentence of said section 2.

This bill entirely ignores and obliterates the second sentence of section 2. Under such a construction, what a piece of folly it was to go to the trouble of adopting section 2 as an amendment to the Constitution. The fourteenth amendment, of which section 2 is a part, was proposed by the Thirty-ninth Congress. There were great men in that Congress from Michigan, Massachusetts, New York, Ohio, and other States, and all of them

regarded section 2 as a matter of great and abiding importance. The men who represented these States in Congress at that time would be surprised if they could see how lightly their successors now regard their work.

What does the second sentence of said section 2 mean? It means just what it says. It means that every time an apportionment is made the Congress which makes it must determine whether that section is being violated; and if so, the apportionment must be made accordingly. Of course, if power to pass upon that section were entrusted to the Secretary of Commerce, it could not be claimed that anything he did by virtue of such power would be a ministerial act. For that reason no doubt the second sentence of said section 2 was completely ignored.

It would not do to give the power to pass upon that question to the Secretary of Commerce, for that would give him legislative functions. Congress can not pass upon that question in advance, for Congress can not tell in advance what the conditions will be when the time comes to make an apportionment. A grand jury can only indict for past crimes and not for future crimes. Congress can not anticipate at this time whether there will or will not be a violation of said section 2 in 1930. Therefore, the only thing the proponents of this bill could do was to blot out the second sentence of said section 2 and eliminate it from consideration, but a part of the Constitution can not be blotted out so easily. Said section 2 is still in full force and effect, and the second sentence of that section is as much a part of the Constitution to-day as any other sentence in the entire instrument. Suppose some State should pass a law denying the right to vote to all under 25 years of age. I use this simply as an illustration, not because I believe any State will pass such a law. If some State did pass such a law, clearly it would be the duty of Congress in making the apportionment to reduce the basis of representation of such State according to the requirement of said section 2. Under this bill, however, the Secretary of Commerce is authorized to make an apportionment without taking any such situation into account. It may be said that if such a situation should arise, Congress could step in and repeal the law, if this bill should be passed. Of course, Congress could repeal any law, but that is not the test whether a law is constitutional. The test is whether by its terms a law is in harmony with the Constitution and not whether it can be repealed.

Mr. STOBBS. Will the gentleman yield?

Mr. KOPP. Yes; I yield to the gentleman from Massachusetts.

Mr. STOBBS. I want to ask the question once again that I asked of your colleague. Has there been any machinery set up by Congress to provide for a violation of the provisions of the fourteenth amendment?

Mr. KOPP. Certainly.

Mr. STOBBS. What machinery?

Mr. KOPP. The Constitution sets up the machinery.

Mr. STOBBS. Has there been any tribunal set up by Congress to determine whether or not there has been any violation of the provisions of the fourteenth amendment?

Mr. KOPP. Congress itself is that tribunal. Congress itself must decide that question. Certainly not the Secretary of Commerce.

Mr. STOBBS. But it has never been determined here.

Mr. KOPP. Yes. Every time an apportionment bill has been passed Congress by its action has said there was no sufficient reason for reducing the basis of representation in any State under that provision of the Constitution.

Mr. STOBBS. Congress has never decided that, in fact, there has been a violation of this provision of the fourteenth amendment.

Mr. KOPP. No. But that does not repeal or in the slightest degree affect the constitutional provision. If there are no violations of a law that does not repeal the law.

Mr. STOBBS. Let us assume that Congress should at some time determine there had been a violation of the provisions of the fourteenth amendment. Then all you will have to do will be to provide in the bill that the Secretary of Commerce, in a purely ministerial capacity, shall determine the population in the country, excluding Indians not taxed, and excluding such persons as Congress may decide to have been in conflict with the provisions of the fourteenth amendment.

Mr. KOPP. But under this bill the Secretary of Commerce is authorized to proceed, regardless of any violations of this constitutional provision. The test of this bill is what he is authorized to do, and not what laws Congress might pass to head him off. We could do many things to stop him. We could abolish his office, but nothing that Congress could do to prevent a violation of the Constitution in any way contributes in the slightest degree to the constitutionality of this bill. The fact that it authorizes unconstitutional acts, unless restrained by other legislation, clearly shows its unconstitutional character.

Mr. RANKIN. For the satisfaction of the gentleman from Massachusetts, I desire to call attention to the fact that the fifteenth amendment wiped out and nullified that clause of the fourteenth amendment so far as it relates to reducing southern representation on account of the race question.

Mr. STOBBS. Will the gentleman yield further?

Mr. KOPP. Yes.

Mr. STOBBS. I understand there is a difference of opinion as to whether it has been wiped out by the fifteenth amendment.

Mr. RANKIN. But not among those who have seriously considered the matter.

Mr. KOPP. I agree that this constitutional provision in said section 2 has no special application to the colored race. The fifteenth amendment does relate particularly to the colored race, but not so the fourteenth amendment. The latter is universal and applies to all. Said section 2 applies just as much to a State without a single colored person in it, if there be such a State, as to any other State in the Union. What I claim is that Congress must pass upon the questions that may arise under the latter part of said section 2. No other body can do that and certainly the Secretary of Commerce can not do that. No such power could be delegated to him, and if we could legally delegate such power to him, I would strenuously oppose such action. I would not be willing to let any individual pass upon such questions. I would not be willing for any other body to pass upon any question connected with the latter part of said section 2. Congress is the only body that has such authority.

Mr. STOBBS. This bill does not ask him to pass upon it.

Mr. KOPP. That is true. The gentleman who drew this bill certainly knew that such extraordinary power could not be delegated to the Secretary of Commerce, and for that reason such a provision was not put in the bill.

Mr. STOBBS. Because Congress has never decided that there has been any violation of the fourteenth amendment.

Mr. KOPP. Suppose a grand jury should not find any indictment for years, would that in any way affect the indictable offenses in that jurisdiction? Suppose no crime should be committed in a State for a period of many years, would that repeal any laws against crime or annul the Constitution?

Mr. STOBBS. Just put in a clause, if you want to, excluding also such people or persons as Congress has decided have been affected by a violation of the provisions of the fourteenth amendment, and then it would be purely ministerial.

Mr. KOPP. Congress can not decide that in advance. That must be decided at the time the apportionment is made, but this bill passes the making of the apportionment over to the Secretary of Commerce.

Mr. STOBBS. No; there is nothing in the bill that would be passed to him.

Mr. KOPP. The bill takes all out of the hands of Congress, and does not let the Secretary of Commerce consider anything but population. That is the only thing he can consider.

Mr. CRAIL. Will the gentleman yield?

Mr. KOPP. Yes; I yield to the gentleman from California.

Mr. CRAIL. There have been five reapportionments since the fourteenth amendment was made to the Constitution of the United States. In any of the five bills for reapportionment since that time has there been any different language used than is used in this bill in regard to the fourteenth amendment?

Mr. KOPP. When the House passed an apportionment bill that was a finding that there was no occasion to insert other provisions than those contained in the bill. That was the effect of such action.

Mr. JACOBSTEIN. Will the gentleman yield?

Mr. KOPP. I yield to the gentleman from New York.

Mr. JACOBSTEIN. I can not imagine a Secretary doing what the gentleman thinks he might do, but suppose he did and suppose he were so arbitrary as not to count certain people and would submit those figures to the House.

Mr. KOPP. Has the gentleman suggested that the Secretary might not count them?

Mr. JACOBSTEIN. Suppose he is going to exempt from the calculation people who have been disfranchised, we will say; he has to submit the figures on the first day of the Seventy-first Congress to the House then convening, and if the House, upon looking at those figures, decides that the Secretary of Commerce had no right to use such discretion, we can go ahead then and do anything we please.

Mr. KOPP. Yes; we could do anything we pleased. As I said before, we could repeal the law, we could abolish the Department of Commerce, and then there would be no Secretary of Commerce, but that is not the test. We can repeal an unconstitutional law, but that fact does not make it constitutional.

If it were otherwise there would be no unconstitutional laws, for all laws can be repealed. Then again, we might get tied up by interested Members, if we may believe the statements of the gentleman from New York.

Mr. JACOBSTEIN. Why should we be tied up?

Mr. KOPP. That is the argument the gentleman from New York makes for this bill. He says that if Congress should try to pass an apportionment bill in the regular way two years hence, interested Members would tie up Congress.

Mr. BANKHEAD. Will the gentleman yield to me to reply to the gentleman?

Mr. KOPP. I yield to the gentleman from Alabama.

Mr. BANKHEAD. Suppose the Committee on the Census refused to bring in any report whatever with reference to reapportionment after they had decided, as a matter of fact, that the census figures were wrong, then would not the hands of Congress be absolutely tied?

Mr. KOPP. They certainly would be.

Mr. HUDSON. Will the gentleman yield there?

Mr. KOPP. Yes. I yield to the gentleman from Michigan.

Mr. HUDSON. Has not the Congress a chance to get the figures if the Secretary fails to bring them in?

Mr. KOPP. No doubt Congress has the power to do this, but by this bill Congress divests itself of its rights, and it is much better for Congress to retain its rights than to regain them afterwards when an emergency arises. It is much better in legislation to do the right thing at the start than to do the wrong thing and then undo it afterwards. We should follow the Constitution in making a reapportionment, and then there will be no trouble or complications.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. RANKIN. Mr. Chairman, how does the time stand?

The CHAIRMAN. The gentleman from Mississippi has 11 minutes remaining, and the gentleman from Connecticut 15 minutes remaining.

Mr. RANKIN. Mr. Chairman, I yield four minutes to the gentleman from Virginia [Mr. MOORE].

Mr. MOORE of Virginia. Mr. Chairman, I only wish to take the little time that my friend has allotted me to state my own position. If the Seventy-first Congress were in session, and the results of the census of 1930 had been reported to Congress and it were engaged in passing reapportionment legislation, I should expect to vote to restrain the membership of the House to the present number of 435, and do so despite the fact that my own State in all probability would suffer a loss of one Member. So my vote in opposition to this bill is not determined by the circumstance that the State of Virginia, if it is enacted, may be reduced from a membership of 10 to a membership of 9.

My opposition to the measure is based upon two main considerations. First, I can not find in the Constitution any warrant at all for the belief that it was intended that Congress should provide a reapportionment in advance of the census being actually made and reported, because, as suggested a while ago by the gentleman from Pennsylvania [Mr. WELSH], it is conceivable that conditions might thereby be developed which would affect the judgment of Congress as to what the membership should be. That is one reason why I can not bring myself to support the bill.

The other reason is that I do not believe those who framed the Constitution ever intended that reapportionment should be made the subject of anticipatory legislation; that Congress should set up a system, not only involving a final conclusion in advance as to what should be the basis of membership following the next census, but the number of Members to be elected throughout the future. I do not believe they ever dreamed that Congress would hobble itself by taking any such course. As suggested during the debate, if this legislation is passed it will remain on the statute book through all time unless there is repeal legislation enacted. It may not be found objectionable at once. Four hundred and thirty-five Members may be sufficient now, as the distinguished Speaker of the House thinks, and I agree with him, but 20 years from now, 30 years from now, 40 years from now the conditions in the country may be such that a larger number would be justified, and the number could not be increased without legislation, requiring, of course, the approval of the President, and a presidential veto might make it impossible. [Applause.]

Mr. FENN. Mr. Chairman, I yield three minutes to the gentleman from Michigan [Mr. HUDSON].

Mr. HUDSON. Mr. Chairman and gentlemen of the House, it seems to me there is only one thing to consider, and that is, Do we care to go on record in favor of an apportionment bill? As is usual there is always excuses found for opposing a piece of legislation. At the present time, as we heard in the former session of Congress, the excuse in opposition is that it is not constitutional. And also to-day they have brought in a new excuse that the Secretary of Commerce might not, because he had the "flu," or for some other reason, get the report of the census to us, or his messenger might fall by the wayside or be kidnaped. There are two things in this measure upon which this House is expressing itself. It is not abrogating any power. The House expresses itself as in favor of a membership of 435, and furthermore it is expressing itself as to how that apportionment shall be made.

Now, gentlemen, it seems to me that it is time for us to make up for our dereliction of days gone by and pass this bill, and let the country know that we are standing on the Constitution in this body. It is to be regretted, and I sympathize with the States whose urban population is increasing faster than the rural population.

It is to be regretted, perhaps, that there is this shifting of the population of the country to our great cities like the city which in part I represent, because the shifting in the State of Michigan is toward the metropolitan district of Detroit, at the expense of the other districts, but that is a situation that we can not correct here. It is the situation that is going to exist more and more, and the only question before us is, Do we want to see an effective body of 435 Members, or a body that will become so large that it will not efficiently function? I believe there are enough votes in this House at this time to pass this bill. This may not be perfect, as has been said, but it is a piece of legislation that is a step in the right direction, and each one of us should vote for it. [Applause.]

Mr. FENN. Mr. Chairman, I yield the remainder of my time to the gentleman from Michigan [Mr. MCLEOD].

Mr. MCLEOD. Mr. Chairman, this occasion marks the sixth time a reapportionment bill has been before the House since 1920. In a century and a half of American history the Congress has never before failed to perform its reapportionment duty as laid down in the Constitution.

Now, in the ninth year following the census of 1920 we succeed in getting a reapportionment bill before the House which has a good prospect of passage. But this bill does not operate under the census of 1920. So long has the performance of this duty been delayed and postponed that it is no longer feasible to reapportion under the census of 1920. With a new census only one year away, it would be useless and foolish to reapportion on the basis of a census nine years old, especially when the dates of elections and other considerations make it impossible for any apportionment, whatever the basis, to take effect until after the next census will have been completed.

There is only one consideration, and in principle that is an exceedingly strong one, which would make it desirable to reapportion now under the census of 1920, even at this late date in the decennial period, if such action were not precluded by the aforementioned practical reasons; that consideration is one of precedent.

By providing now for reapportionment on the basis of the 1930 census, we are attempting to retrieve the honor and respectability of the Congresses sitting between the years 1920 and 1928 with regard to the census of 1920. Those Congresses have perpetrated a great wrong, a crime against the Constitution. Those who oppose reapportionment have set themselves up as superior to the Constitution, from which they derived their own authority, by not obeying the mandate to reapportion Congress every 10 years.

I have been a Member of the House throughout most of this period of which I have been speaking. I know that the lapse of duty on the part of Congress was accomplished over the vigorous protests of many individual Members. I will say that individually there is not a finer or more conscientious man living than most of those who guide the public affairs of the Nation here in the Halls of Congress. Yet collectively these same men have succumbed to a condition which has made a large blot on the otherwise shining shield of Congress. I would not say that anyone is particularly culpable, yet, all things considered, there is no denying that Congress has failed to abide by the Constitution.

Such uninvited and unwelcome lassitude in Congress must be the result of new conditions or the operation of new forces in our national life over which up to the present time we have had no control. If these new conditions or forces were capable of forcing the abandonment of the 1920 census, thereby jeopardizing the continued progress of representative government, it is time we analyzed carefully the characteristics of this new monster and learn how to combat it. If it should defeat this bill before us to-day and Congress would be forced to let reapportionment go over until after the census of 1930, there are many sober-minded men who believe that nothing short of revolution could restore representative government to the people. If the fact that 11 States would lose representation under the

census of 1920 can force a delay or abandonment of the reapportionment principle of the Constitution for 10 years, then the taking of a census which shows that 17 States would lose representation, among them some of the most powerful in the Union, can only make matters infinitely worse. The future is dark indeed if we can not overcome self-interest for the sake of the common welfare of our country.

It has been said that reapportionment has been delayed because the census of 1920 was not accurate, because the Congress could not agree whether the size of the House should be further increased or not, because the reapportionment bill offered was an attempt to bind a future Congress, because the bill was anticipatory legislation, because the bill delegated powers.

The reapportionment bill which is offered is not unconstitutional in any particular, and the features of it which are novel in the construction of a reapportionment bill were deliberately made so, because a majority agreed that such innovations were necessary to meet new conditions. If the bill which the committee has reported does not meet the approval of the House in every particular, it can be amended, and the Congress, as well as the country, must abide by the will of the majority. This is in accordance with our plan of government. But the thing which can not be reconciled with American sense of justice and of government by the people is that Congress should be content to go year after year without passing any reapportionment bill.

Whenever these spurious arguments against the constitutionality or the wisdom or the justice or the necessity of any particular bill succeeded temporarily, we have dropped the subject like a hot iron, and Congress has closed its eyes to the greater injustice and the greater unwisdom of ignoring the first principle written into our Constitution. What we should have done and what we must do now is to remain at the task of restoring representation in proportion to population until we accomplish it. Let all else wait. Ordinary legislation is of less importance than the preservation of the foundation of our Government. Just as it was necessary in the beginning to call a constitutional convention and invest a document of fundamental principles with the solemn approval of the sovereign people before a Congress could legislate even for the necessities of national life, so it is necessary to-day to observe fundamentals before attempting to perform the routine duties of the Nation's business.

When the Revolutionary War turned into glorious victory, the Continental Congress sought to raise money to pay the expense of the Government. While the heroic American Army under General Washington, on the verge of riot due to misunderstanding, waited, or rather growled impatiently for their pay, even for food and clothing and the right to go home to their families and their farms, Congress could not legislate for them because it had not the authority. Could there have been any greater necessity than that? Yet the stalwart Americans who founded this country believed in principle above life, above property, above everything else. They had fought a war to establish the truth of the principle of "government only with the consent of the governed." Therefore—come riot, come what might—the Continental Congress steadfastly held to the principle that before governing the people the legislature must first get the consent of the governed through a constitutional convention.

The very first condition upon which the Americans of Revolutionary days consented to be governed by Congress was that they should have Representatives in the governing body in proportion to their numbers in the several States. This condition is evidenced by Article I, section 2, of the Constitution. Have we kept faith with them? Can we justify Congress in the least for setting aside the question of reapportionment to discuss routine legislation? No. Not even for all the appropriation bills necessary to run the Government. Reapportionment is the most fundamental thing in American government. It is entitled to come first and must be kept first.

Many things are important which do not partake of the nature of fundamental law. It is very important that appropriation bills be passed with precision in order to provide in advance for the operation of the governmental agencies in an orderly fashion during the coming year. But is it not of far greater consequence whether we have a representative republican government or an oligarchy? Is it not of far greater consequence that we avoid throwing the country into a system of rotten boroughs and gerrymanders which might bring about destructive civil strife? Is it not of far greater consequence to preserve the ideal of justice and equality in government than it is to gratify some desire for temporary material advantage?

Perhaps in the future the portions of the population whose Representatives have sacrificed everything to their selfish interests in insisting upon keeping every one of their Representatives in the face of population changes may have occasion to call upon the principle of abstract justice. They may not always be on the side of might; they should recognize the right.

The States of California, Michigan, Ohio, Connecticut, New Jersey, North Carolina, Texas, and Washington have not set up their selfish interests against the selfish interests of their opponents. They have called attention rather to the necessity of abiding by the rules laid down in the Constitution to preserve order and promote the common welfare.

Between matters of narrow local interest, general rules of government must necessarily operate to the disadvantage of some and the advantage of others. But such local advantages are short lived and in a few years may be completely reversed. They should not be the means of fomenting permanent discord. So long as we are satisfied that the general rules of government are founded in truth and justice, we should submit to them willingly, even though in a narrow sense it goes against our interests. In a broader sense the best interest of anyone or any group is to preserve the Constitution. If we revert to the law of the jungle, only the strongest will survive, regardless of right and justice. He who is stronger to-day may be weaker to-morrow.

The above-named States, by their Representatives, have repeatedly come to Congress and stated their case with admirable patience and forbearance. They have pointed to the census of their populations taken by an impartial and disinterested enumerator. They have called attention to the fundamental law that Representatives shall be apportioned among the States every 10 years in proportion to their respective numbers. They have asked Congress to reapportion the Representatives accordingly. They have now suffered the discrimination against them to continue for one entire decennial period. They demand that reapportionment be made and that the law also include provisions for doing away with such criminal neglect of duty in the future as Congress has been guilty of since 1920.

Daniel Webster, as early as 1832, stated with characteristic force and aptitude the problem of reapportionment. Speaking on the apportionment bill of that year, he said:

> This bill, like all laws on the same subject, must be regarded as of an interesting and delicate nature. It respects the distribution of political power among the States of the Union. It is to determine the number of voices which, for 10 years to come, each State is to possess in the popular branch of the legislature. In the opinion of the committee, there can be few or no questions which it is more desirable should be settled on just, fair, and satisfactory principles than this; * * *.
>
> Representatives are to be apportioned among the States according to their respective numbers; and direct taxes are to be apportioned by the same rule. The end aimed at, is, that representation and taxation should go hand in hand. But between the apportionment of Representatives and the apportionment of taxes there necessarily exists one essential difference. Representation, founded on numbers, must have some limit; and, being from its nature a thing not capable of indefinite subdivision, it can not be made precisely equal.
>
> The Constitution, therefore, must be understood, not as enjoining an absolute relative equality—because that would be demanding an impossibility—but as requiring of Congress to make the apportionment of Representatives among the several States according to their respective numbers, as near as may be.
>
> Congress is not absolved from all rule, merely because the rule of perfect justice can not be applied.

The foregoing statements of the great Webster are as true in condemnation of failure to pass any apportionment bill as they are in opposition to one at variance with the rule of the Constitution in some particular.

That the time-honored methods of securing apportionments were not satisfactory is amply attested by historical documents. The methods of Government must, like all other branches of human activity, keep pace with the advancement of learning and developments in up-to-date practice, if they are to survive. Modern conditions require that some schemes be devised and adopted by Congress which will insure: First, that Representatives will be apportioned; second, that the apportionment will be equitable and proportionate to numbers, as near as may be; and third, that the House shall be kept within the limits of a reasonable and practicable size.

The bill before the House meets these requirements. By providing for an automatic apportionment according to a fixed rule after each census, prompt apportionment is assured, at the same time affording the House ample opportunity to change the rule by affirmative action after any particular census that it desires. The rule of calculation is the same which has been used in the recent past with satisfaction. Since it has been agreed upon in advance of the census and must be applied

with mathematical exactness in each case, it can not conceivably result in partiality to any State or group of States. Lastly it represents the only practicable scheme for accomplishing apportionment, and at the same time keeping the House from further exceeding the limits of desirable size. The experience of years has proved that once a census is taken and political expediency becomes the ruling force, no reapportionment bill which meets the three aforementioned requirements can be enacted, except upon the principles of this bill.

During the course of debate on this bill, there has been in the House evidence of what John Quincy Adams once called "the instinctive expedient of unsteady minds." That is, we have been treated to the spectable of some Members professing to be for reapportionment, but at the same time against every measure proposed for carrying it out.

We have here a bill which is the best that your committee can devise, presumably. I would say that the committee has given its best efforts to the matter. It is unquestionably a good bill. In comparison with the hit-or-miss methods of selecting a basis for apportionment on past occasions, this bill is a model of scientific accuracy and impartiality. Moreover, it is modern enough to meet the new conditions brought about by the controversy over the size of the House. In my opinion, all the House needs now is the same degree of perseverance and determination to see an apportionment bill passed, that Members of Congress had in the early days of American history.

To illustrate the perseverance to which I allude, I would like to describe briefly the procedure in the House, upon the apportionment bill of 1842. The bill was reported on January 22, 1842, specifying a ratio of 63,000 to each Member. A debate of two hours was started. Representative Johnson moved to recommit the bill to a committee of one Member from each State; but the motion prevailed to refer it to the Committee of the Whole on the state of the Union and make it the special order of the day for the first Tuesday of February, and every succeeding day till the passage of the bill.

When the bill was called up, the committee ratio was stricken out and 59 different substitutes were moved by 82 different Members on the same day; 6 more substitute numbers on the following day. The bill was debated intermittently, as the special order of business until the 3d of May, 1842, when it was taken from the Committee of the Whole on the state of the Union and passed by the House. I might add that this was the occasion when the requirement that the States elect their Representatives by districts was apparently first enacted. It was the first time major fractions were counted as entitling a State to an additional Representative.

How are we to act in the light of such zeal for prompt reapportionment? Certainly we should not be content to vote once upon a bill each session and then dismiss the subject indefinitely. We can justify no action except perseverance at reapportionment until a bill is passed.

The debates upon the question of reapportionment have always been among the most severe and acrimonious. Had it not been for the fact that prior to 1920 the House has always resorted to the unhappy expedient of increasing the number of Representatives to whatever proportions was necessary to overcome the opposition, it is more than likely that an impasse would have been encountered years ago.

As a further commentary upon the importance of reapportionment and the historic methods of accomplishing it, let me quote from the Memoirs of John Quincy Adams, in which Adams gives an account of the debates upon the apportionment bill of 1832, which occurred while he was a Member of the House, subsequent to his term as President of the United States:

January 10, 1832: Polk, of Tennessee, called up the bill for the apportionment of representation under the Fifth Census. It was referred to a Committee of the Whole on the state of the Union, Michael Hoffman in the chair. The bill was reported with the ratio of representation fixed at 48,000. A motion was made by Robert Crain, of Virginia, to strike out 48,000 without proposing to insert any other number. This gave rise to a long debate on a point of order, which grew into a snarl, till near 4 o'clock, when the House adjourned.

January 12, 1832: The apportionment bill was taken up in the Committee of the Whole. Howard made his speech for postponing the operation of the new apportionment bill till after the next presidential and congressional elections. He met no support. Armstrong of Pennsylvania, Kerr, Craig, Polk, Beardsley, spoke successively against it, till at last McDuffie rose and begged that gentlemen would make no more speeches on that side. If there was another Member in the House who thought with the mover of the amendment, he should be happy to hear him; but as it was apparent there would not be 10 votes in the House to sustain the motion, it was to be hoped nothing more would be said against it. Howard was more abashed with this short speech than by all the arguments against him, and withdrew his motion. J. W. Taylor then moved 59,000—lost; then 53,000—lost; Craig moved 51,000—lost; Letcher, of Kentucky, moved 47,000—lost; 46,000 was also lost. The bill was then reported to the House without amendment. Wickliffe moved that it should be recommitted to a select committee of one member from each State, with instructions to strike out 48,000 and to leave the number in blank. The House then adjourned about 4.

January 30, 1832: The apportionment bill was taken up. Wickliffe's proposition to recommit the bill to a committee of 24, 1 from each State, with instructions to strike out 48,000 and leave blank, was rejected by yeas and nays—114 to 76. Mr. Hubbard then moved to strike out 48 and insert 44. This was last and desperate chance. Wickliffe advised him not to specify the inserting number, because, he said, he would certainly lose it. But Hubbard insisted. As the question was about to be taken, Burges moved an adjournment, which was carried. The number 48,000 is so entrenched in the bill that it is obviously impossible to dislodge it.

January 31, 1832: The apportionment bill was taken up. On motion to strike out 48,000, Slade made a long and sensible speech; Arnold, Kerr, Wilde short ones. The yeas and nays were taken—94 for and 99 against striking out. Hubbard then moved to strike out 48,000 and insert 44,500, upon which Wilde moved and carried an adjournment.

February 1, 1832: The hour expired and the apportionment bill was called up. Hubbard replied at some length to the arguments against his motion; Sutherland and McCarty of Indiana spoke against him. I received a note in pencil from the Speaker, urging me to sum up in reply. It was 4 o'clock and great impatience in the House for the question. I made a very short and incoherent speech, saying not half what I intended and omitting several most forcible positions, which occurred to me after it was all over. I recurred to the Constitution and to a calculation showing that the committee which fixed the ratio at 48,000 had taken special care of their own States. It brought up Barstow, of New York, to vindicate himself, and Polk to refute my positions. The question was taken by yeas and nays and carried—98 to 96—to strike out 48,000 and insert 44,000. Polk then told me that he would give up the question. Holland, of Maine, who was on the committee, came to me with a calculation to show that Maine was better off with 44,000 than with 48,000. Evans had been all along with us and spoke this day for 44,000. Wickliffe thanked me for my calculations and said he had intended to present the same himself. Cambrelong congratulated me upon our success. I had despaired of the vote and was overjoyed at the event. The whole bill was to be modified in conformity to the change in the ratio, and the House adjourned at half past 4. I rode home rejoicing, though much dissatisfied with my own performance.

February 2, 1832: The hour expired and the apportionment bill was taken up. Mr. McKennan moved a reconsideration of the vote of yesterday. The vote of reconsideration was taken, and prevailed by 100 to 94. Two or three were absent who voted with us yesterday and there were two or three deserters. The reconsideration placed the bill just where it was before the vote was taken yesterday; that is, it restored the number 48,000, with the motion of Mr. Hubbard to strike it out and insert 44,000. Allan, of Kentucky, moved to recommit the bill with instructions to reduce the ratio so that the number of the House would not exceed 200 Members. He asked the yeas and nays; rejected. The House then adjourned. Mr. Burges told me that the reconsideration of this day was the effect of interference by some of the Senators.

February 8, 1832: The apportionment bill was taken up. The question upon Mr. Kerr's motion to strike out 48,000 and insert 44,000 as the ratio was about to be taken by yeas and nays, and as it appeared to be the last opportunity for pressing the smaller number, I again addressed the House in a very confused and ill-digested speech, presenting, however, some considerations which had not been touched and recurring particularly to the journal of the convention of 1787 to show the principles upon which the representation had been established in the Constitution.

As usual, I omitted half what I had intended to say and blundered in what I did say. I was answered at some length by Coulter, of Pennsylvania; Clay, of Alabama; and Polk, of Tennessee; and sustained by Wayne, of Georgia, and Letcher, of Kentucky, who tried with success the good effect of joking. The question was taken by yeas and nays and resulted in a tie—97 for and 97 against. The Speaker decided in favor of the change, and for the second time we carried our vote. But we could not get the bill engrossed. Taylor moved to recommit the bill, instructions to strike out 44,400 and insert 53,000, and took the yeas and nays. His motion was rejected. McDuffie moved that the bill should be engroseed; but Mitchell, of South Carolina, moved to adjourn, and it was carried. So we shall lose it again to-morrow.

February 9, 1832: The apportionment bill was taken up, and motion upon motion was made to strike out the numbers of 44,400 agreed upon yesterday, and the yeas and nays were taken six or seven times. A call of the House was demanded, and they prevailed upon Clayton, of Georgia, to move a reconsideration of the vote of yesterday, and then the House adjourned.

February 14, 1832: The apportionment bill was then taken up. Mr. Clayton withdrew his motion for a reconsideration of the motion by which 44,400 had been adopted as the ratio. Evans of Maine's motion

to reduce the ratio to 44,300 was then carried by yeas and nays, after which Polk, the chairman of the committee which had reported the bill, moved a recommitment of the bill, with instructions to strike out 44,300 and insert 47,700.

The effect of this was to give an additional Member to each of the three States of Georgia, Kentucky, and New York, and it bought the votes of a sufficient number of the delegations of those States to carry the majority. It had been settled out of doors, like everything else upon this bill. It prevailed by yeas and nays—104 to 91.

February 15, 1832: I passed an entirely sleepless night. The iniquity of the apportionment bill and the disreputable means by which so partial and unjust a distribution of the representation had been effected agitated me so that I could not close my eyes. I was all night meditating in search of some device, if it were possible, to avert the heavy blow from the State of Massachusetts and from New England. I drew up this morning a short paper to show to the Members of the Pennsylvania delegation, appealing to their justice and generosity as umpires upon this question. Walking up to the Capitol I met Mr. Webster and spoke to him upon the subject. He said he would make a dead set against the bill in the Senate.

In the House the bill was taken up * * *. When the report was received an amendment was moved to substitute 45,500 for 47,700. McDuffie moved the previous question upon the plea of saving time and useless debate, but he could not carry it * * *. Many numbers, down to 42,000 and up to 59,000, were moved and rejected; and, lastly, the number reported by the committee, 47,700, was adopted and the bill ordered to be engrossed for a third reading. I hung my harp upon the willow.

Thus former President John Quincy Adams resigns himself to what he believed were the iniquities of an unjust apportionment bill. The thing which is most striking about the early proceedings just described, is that while all the Members felt very keenly on the subject, and although it was customary then to settle the actual ratio of the bill by taking innumerable votes in the House, as well as in the committee, they made reapportionment the special order of business and stayed at it until a bill was agreed upon.

Adams was a contemporary of the men who wrote the Constitution and who started our theories of government in practice in America. The relative importance of apportionment in his mind, and the minds of his contemporaries, is clearly shown in the fullness of his notes. He was a former President of the United States, which gives peculiar significance to his utterance that the inequity of the apportionment laws filled him with dark forebodings for the future of the Republic.

On March 1, 1832, Adams had said:

> I should hope that a great and inveterate defect in the apportionment laws might be remedied. I would not prematurely despair of the Republic, but my forebodings are dark, and the worst of them is in contemplating the precipice before us.

In spite of their strong State loyalties and disagreements, our predecessors of 1832 never delayed the duty of reapportionment more than two years from the date of the census. They would have been horrified indeed, and filled with forebodings even darker than John Quincy Adams's, had they ever contemplated passing one entire decennial census without a reappportionment.

If we are not to confess that the passage of time since 1787 has weakened the American passion for justice and debased our conception of the relative value of things, we must of necessity give some thought to principles of government.

In my opinion, the time is not far distant when a new spirit will be injected into the proceedings of Congress. The lines of thought of men of vision will lead to the necessity of setting up, if not a party, then a group in Congress—a bloc, if you please—which will at all times give first consideration to the fundamental principles of the Constitution.

Such a group might be called a constitutionalist party, because it would have the principal qualification for a great national party, namely, adherence to a set of principles of government. Its duty would be not to seek additional amendments to the Constitution but rather to prevent the enactment of proposed amendments which are foreign to basic principles of government, to keep alive the thoughts and plans embodied in the original covenant, the most promising historic governmental document ever recorded. The duty of such a party would be to prevent the waning away of the Constitution through improper teaching or lack of teaching; to purge the supreme law of matters which are properly only subject matter for mere legislation.

The constantly growing tendency to place everything in the Constitution is evidence of a growing deficiency in moral courage. What we can not do by our own strength we seek to unload upon the shoulders of the Constitution. Such weakness and shortsightedness can result only in disaster. What is the good of having a supreme law of the land if every group and faction succeeds in borrowing its dignity in a vain effort to enforce universal respect for some particular pet rule of social conduct, which by comparison is of trivial importance. Under such conditions there would soon be no respect for any part of the Constitution. As a matter of fact, I think the apathy toward the violation of Article I of the Constitution can largely be attributed to overloading the document with heavy-handed foreign characteristics in the amendments. A supreme law to live and guide a country to a great destiny must be confined to things of supreme importance. [Applause.]

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141. Beedy, Carroll, L. The reapportionment bill. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7065–7067. Also printed separately.

142. Black, Eugene. House can not go on increasing its membership indefinitely. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7073–7074.

143. Blanton, Thomas L. Apportionment of Representatives. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7072–7073.

144. Brinson, Samuel M. The reapportionment bill. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7076–7077.

144a. Burton, Theodore E. The reapportionment bill. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7070–7071.

145. Cable, John L. Apportionment of Representatives in Congress. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 131 (current file) : 7158–7159.

146. Cockran, W. Bourke. The reapportionment bill. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7068–7070.

147. Cole, R. Clint. The apportionment bill. Speech in the House Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 131 (current file) : 7157–7158, 7159–7160.

148. Fairchild, Benjamin L. The increase of the membership of the House. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7075–7076.

149. Gillett, Frederick H. Reapportionment. Speech in the House, May 6, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no 22 (current file) : 1078–1079.

150. Goodykoontz, Wells. Apportionment of Representatives in Congress among the several States. Extension of remarks in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 134 (current file) : 7316–7317.

151. Hardy, Rufus. Reapportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, part 6 (bound file) : 6334–6335.

152. Jefferis, Albert W. A representative government. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7075.

153. Langley, John W. The reapportionment bill. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7067.

154. Larsen, William W. Reapportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7060–7062.

155. Lineberger, Walter F. Reapportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7064.

156. McPherson, Isaac V. Reapportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 131 (current file) : 7154–7164.

157. Magee, Walter W. Reapportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7072.

158. Mondell, Frank W. The size of the House of representatives. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7077–7078.

159. Nelson, John M. The Constitution evaded to increase the House. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 134 (current file) : 7314–7316.

160. Newton, Cleveland A. Reapportionment of Representatives in Congress. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 131 (current file) : 7162–7164.

161. Rankin, John E. The apportionment bill. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 134 (current file) : 7313–7314.

162. Sanders, Morgan G. The apportionment bill. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 132 (current file) : 7217–7218.

163. Siegel, Isaac. Reapportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7054–7060.

164. Tinkham, George H. Question of constitutional privilege. Speech in the House, May 6, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 22 (current file) : 1074–1076.

165. —— Reapportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7060.

166. Treadway, Allen T. Increasing the membership of the House. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7074–7075.

167. Vaile, William N. Representation on the basis of population. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7079–7080.

168. White, Hays B. Increase the number of Representatives proposed rather than reduce that number. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 131 (current file) : 7157.

169. Williams, Thomas S. Apportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7072.

170. Wood, William R. Apportionment. Speech in the House, Oct. 14, 1921. CONGRESSIONAL RECORD, 67th Cong., 1st sess., v. 61, no. 129 (current file) : 7067–7068.

67th Congress, 2d session, v. 62 (current file)

171. Larsen, William W. Method of apportioning representation in the House of Representatives. Speech in the House, Dec. 17, 1921. CONGRESSIONAL RECORD, 67th Cong., 2d sess., v. 62, no. 12 (current file) : 569–570.

68th Congress, 1st session, v. 65 (current file)

172. Barbour, Henry E. Apportionment of Representatives in Congress. Speech in the House, Mar. 14, 1924. CONGRESSIONAL RECORD, 68th Cong., 1st sess., v. 65, no. 74 (current file) : 4323–4325.

173. McLeod, Clarence J. Reapportionment. Speech in the House, June 4, 1924. CONGRESSIONAL RECORD, 68th Cong., 1st sess., v. 65, no. 149 (current file) : 10774–10775.

68th Congress, 2d session, v. 66 (current file)

174. Blanton, Thomas L. We have too many Members in the House of Representatives. Speech in the House, Feb. 12, 1925. CONGRESSIONAL RECORD, 68th Cong., 2d sess., v. 66, no. 58 (current file) : 3672–3673.

175. Winter, Charles E. Introduction of H. J. Res. 324 proposing an amendment to the Constitution providing for the apportionment of the Representatives and direct taxes among the several states. Referred to the Committee on the Judiciary. CONGRESSIONAL RECORD, 68th Cong., 2d sess., v. 66, no. 36 (current file) : 2180.

69th Congress, 1st session, v. 67 (current file)

176. Barbour, Henry E. The Constitution and apportionment. Speech in the House, Apr. 8, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 96 (current file) : 6888–6889.

177. Cannon, Clarence. Reapportionment. Speech in the House, Apr. 8, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 96 (current file) : 6896.

178. Cooper, Henry A. The privileged status of an apportionment bill. Speech in the House, Apr. 8, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 96 (current file) : 6894–6895. Also published separately.

179. Garrett, Finis J. Apportionment. Speech in the House, Apr. 8, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 96 (current file) : 6892–6893.

180. Gibson, Ernest W. Methods of reapportionment. Extension of remarks in the House, Apr. 7, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 95 (current file) : 6840.

181. Griffin, Anthony J. Party promises unfulfilled. Congressional reapportionment—the coal question—farm relief. Speech in the House, June 28, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 172 (current file) : 12846–12848.

182. Kahn, Mrs. Florence P. Reapportionment. Speech in the House, Apr. 29, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 116 (current file) : 3869–3874.

183. Snell, Bertrand H. No mandatory provision in the Constitution which provides for immediate apportionment. Speech in the House, Apr. 8, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 96 (current file) : 6887–6888.

184. Tilson, John Q. Reapportionment. Speech in the House, Apr. 8, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 96 (current file) : 6895.

185. U. S. Congress. House. Apportionment. Debate in the House, Apr. 8, 1926. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 96 (current file) : 6887–6898.

186. U. S. Congress. Senate. Report of the advisory committee to the Director of the Census upon the apportionment of representatives. CONGRESSIONAL RECORD, 69th Cong., 1st sess., v. 67, no. 95 (current file) : 6840–6842.

69th Congress, 2d session, v. 68 (current file)

187. Barbour, Henry E. Reapportionment. Speech in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5327–5328.

188. Bulwinkle, A. L. The so-called apportionment bill. Extension of remarks in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5418.

189. Burton, Theodore E. Apportionment of Representatives in Congress. Speech in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 70 (current file) : 5597–5598.

190. Greenwood, Arthur H. Membership of the House of Representatives. Speech in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5328.

191. Jacobstein, Meyer. Apportionment of members of the House of Representatives. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5329–5330.

192. Lea, Clarence F. Reapportionment. Extension of remarks in the House, Mar. 3, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 72 (current file) : 5815–5816.

193. Linthicum, J. Charles. Apportionment of Representatives in Congress. Extension of remarks in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5412.

194. Lozier, Ralph F. Reapportionment. Speech in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5326–5327.

195. McLeod, Clarence J. Reapportionment. Speech in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5324–5325.

196. Peery, George C. Apportionment of Representatives in Congress. Speech in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 70 (current file) : 5622–5624.

197. Rankin, John E. Reapportionment. Speech in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5330.

198. Sosnowski, John B. Reapportionment. Speech in the House, Jan. 14, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 26 (current file) : 1679–1680.

199. Thurston, Lloyd. Reapportionment. Speech in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5328–5329.

200. Tydings, Millard E. Reapportionment. Extension of remarks in the House, Mar. 2, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5412.

201. U. S. Congress. House. Apportionment of Representatives in Congress. Debate in the House, Mar. 2, 1927, on the bill H. R. 17378. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 69 (current file) : 5323–5331.

202. Washington. Legislature. House. [Memorial regarding apportionment.] June 18, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 40 (current file) : 2670–2671.

203. Woodrum, Clifton A. Reapportionment in the House of Representatives. Extension of remarks in the House, Mar. 3, 1927. CONGRESSIONAL RECORD, 69th Cong., 2d sess., v. 68, no. 70 (current file) : 5624.

70th Congress, 1st session, v. 69 (current file)

204. Bankhead, William B. Apportionment of Representatives. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9293.

205. Barbour, Henry E. Apportionment of the Members of the House of Representatives. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9439.

206. Brigham, Elbert S. Reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9443–9444.

207. Burton, Theodore E. Reapportionment. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9295–9296.

208. Celler, Emanuel. Apportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9432–9433.

209. Chapman, Virgil. Apportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9440–9441.

210. Clancy, Robert H. Reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9435–9436.

211. Clarke, John D. Apportionment of Representatives. Extension of remarks in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9466.

212. Cochran, Thomas C. Reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess, v. 69, no. 132 (current file) : 9438–9439.

213. Cole, Cyrenus. Apportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9431–9432.

214. Crail, Joe. Reapportionment among the states. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9307–9308.

215. Evans, W. E. Reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9433–9434.

216. Free, Arthur M. Reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9438.

217. Green, R. A. Reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9442.

218. Hersey, Ira G. Apportionment of members of the House of representatives. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9431.

219. Huntington, Edward V. A simple explanation of the method of equal proportions. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 130 (current file) : 9262–9265.

220. Jacobstein, Meyer. Apportionment. Speech in the House, May 8, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 122 (current file) : 8376–8379.

221. —— Reapportionment. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9300–9304.

222. LaGuardia, Fiorello H. Apportionment of Representatives in Congress. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 133 (current file) : 9590–9592.

223. Linthicum, J. Charles. Apportionment of Representatives. Extension of remarks in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 140 (current file) : 10434.

224. Lozier, Ralph F. Major fractions formula versus equal proportions formula in apportioning representation. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 143 (current file) : 10899–10900.

225. —— Reapportionment. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 143 (current file) : 10875–10884.

226. —— Unconstitutional provisions of pending reapportionment bill. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 143 (current file) : 10902.

227. McLeod, Clarence J. Apportionment. Speech in the House, May 24, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 138 (current file) : 10106–10108.

228. —— Reapportioning the members of the House on the census to be taken in 1930. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9298–9299.

229. Mapes, Carl E. Reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9444–9445.

230. Michener, Earl C. Reapportionment of Representatives. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9291–9292.

231. Moorman, Henry D. Apportionment of Representatives. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9434.

232. Ramseyer, C. William. Reapportionment. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9292–9293.

234. Rankin, John E. Reapportioning under the census of 1920. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9296–9298.

235. Romjue, Milton A. Apportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9436–9438.

236. Rutherford, Samuel. The Constitution and reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9434–9435.

237. Thurston, Lloyd. Apportionment. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9305–9306.

238. Tilson, John Q. Reapportionment. Speech in the House, May 18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 132 (current file) : 9439–9440.

239. U. S. Congress. House. Reapportionment of Representatives. Debate in the House, May 17–18, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 current file) : 9291–9309 ; no. 132 (current file) : 94330–9447.

240. Vandenberg, Arthur H. Reapportionment. Explanatory statement regarding Senate bill 4554, relating to reapportionment, and an editorial from the Detroit News. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 143 (current file) : 10789–10790.

241. Williams, Thomas S. Reapportionment of the House of Representatives. Speech in the House, May 17, 1928. CONGRESSIONAL RECORD, 70th Cong., 1st sess., v. 69, no. 131 (current file) : 9294.

The CHAIRMAN. The time of the gentleman has expired.

The time for general debate having expired, the Clerk will read the bill under the 5-minute rule.

The Clerk read as follows:

Be it enacted, etc., That as soon as practicable after the fifteenth and each subsequent decennial census the Secretary of Commerce shall transmit to the Congress a statement showing the whole number of persons in each State, excluding Indians not taxed, as ascertained under such census, and the number of Representatives to which each State would be entitled under an apportionment of 435 Representatives made in the following manner: By apportioning one Representative to each State (as required by the Constitution) and by apportioning the remainder of the 435 Representatives among the several States according to their respective numbers as shown by such census by the method known as the method of major fractions.

The committee amendments were read as follows:

Page 1, beginning in line 3, after the word "That," strike out "as soon as practical after the fifteenth and each subsequent decennial census," and insert in lieu thereof "on the first day of the second regular session of the Seventy-first Congress and of each fifth Congress thereafter."

Page 2, in line 1, strike out the words "such census" and insert in lieu thereof "the fifteenth and each subsequent decennial census of the population."

Mr. FENN. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CHINDBLOM, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill H. R. 11725, had come to no resolution thereon.

LEAVES OF ABSENCE

By unanimous consent, leave of absence was granted to—

Mr. ALLGOOD, on request of Mr. HILL of Alabama, on account of illness in his family.

Mr. SUMMERS of Washington, for six days, on account of death in his family.

Mr. DOUGLASS of Massachusetts, for one week, on account of important business.

Mr. TUCKER, on request of Mr. MOORE of Virginia, on account of sickness.

ORDER OF BUSINESS

Mr. TILSON. Mr. Speaker, I wish to announce that the bill which has been under consideration in the Committee of the Whole House on the state of the Union will be considered to-morrow.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H. R. 13645. An act to establish two United States narcotic farms for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes;

H. R. 14473. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois; and

H. R. 14474. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois.

H. R. 15333. An act granting the consent of Congress to the South Park commissioners and the commissioners of Lincoln Park, separately or jointly, to construct, maintain, and operate a free highway bridge across that portion of Lake Michigan lying opposite the entrance to Chicago River, Ill.; and granting the consent of Congress to the commissioners of Lincoln Park to construct, maintain, and operate a free highway bridge across the Michigan canal, otherwise known as the Ogden Slip, in the city of Chicago, Ill.

ADJOURNMENT

Mr. FENN. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 5 minutes p. m.) the House adjourned, to meet to-morrow, Friday, January 11, 1929, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Friday, January 11, 1929, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

Navy Department appropriation bill.

COMMITTEE ON FOREIGN AFFAIRS

(10.30 a. m.)

Requesting the President to propose the calling of an international conference for the simplification of the calendar, or to accept on behalf of the United States an invitation to participate in such a conference (H. J. Res. 334).

COMMITTEE ON WAYS AND MEANS

(10 a. m. and 2 p. m.)

Tariff hearings as follows:

SCHEDULES

Earths, earthenware, and glassware, January 11.
Metals and manufactures of, January 14, 15, 16.
Wood and manufactures of, January 17, 18.
Sugar, molasses, and manufactures of, January 21, 22.
Tobacco and manufactures of, January 23.
Agricultural products and provisions, January 24, 25, 28.
Spirits, wines, and other beverages, January 29.
Cotton manufactures, January 30, 31, February 1.
Flax, hemp, jute, and manufactures of, February 4, 5.
Wool and manufactures of, February 6.
Silk and silk goods, February 11, 12.
Papers and books, February 13, 14.
Sundries, February 15, 18, 19.
Free list, February 20, 21, 22.
Administrative and miscellaneous, February 25.

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

(10.30 a. m., Caucus Room)

Continuing the powers and authority of the Federal Radio Commission under the radio act of 1927 (H. R. 15430).

COMMITTEE ON FLOOD CONTROL

(10 a. m.)

For improvement of navigation and the control of floods of Caloosahatchie River and Lake Okeechobee and its drainage area, Florida (H. R. 14939).

For the improvement of the Caloosahatchie River, Fla., for purposes of navigation and flood control (H. R. 15095).

SPECIAL COMMITTEE INVESTIGATING PRISONS

(10 a. m., Room 127 House Office Building)

To consider prison conditions, care of inmates, and labor conditions in United States prisons.

COMMITTEE ON MILITARY AFFAIRS

(10 a. m.)

To amend section 5a of the national defense act, approved June 4, 1920, providing for placing educational orders for equipment (H. R. 450).

COMMITTEE ON THE JUDICIARY—SUBCOMMITTEE NO. 2

(10 a. m.)

A bill to amend sections 116, 118, and 126 of the Judicial Code (H. R. 13567).

EXECUTIVE COMMUNICATIONS, ETC.

736. Under clause 2 of Rule XXIV, a letter from the Secretary of the Treasury, transmitting schedules and lists of papers, documents, etc., in the files of this department which are not needed in the transaction of public business and have no permanent value, was taken from the Speaker's table and referred to the Committee on Disposition of Useless Executive Papers.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 13857. A bill to amend the act entitled "An act for the relief of contractors and subcontractors for the post offices and other buildings and work under the supervision of the Treasury Department, and for other purposes," approved August 25, 1919, as amended; without amendment (Rept. No. 2056). Referred to the House Calendar.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 15468. A bill to repeal the provisions of law authorizing the Secretary of the Treasury to acquire a site and building for the United States subtreasury and other governmental offices at New Orleans, La.; without amendment (Rept. No. 2057). Referred to the Committee of the Whole House on the state of the Union.

Mr. LEAVITT: Committee on Indian Affairs. H. R. 15213. A bill to authorize the Secretary of the Interior to develop power and to lease, for power purposes, structures of Indian irrigation projects, and for other purposes; without amendment (Rept. No. 2062). Referred to the Committee of the Whole House on the state of the Union.

Mr. LEAVITT: Committee on Indian Affairs. H. J. Res. 343. A joint resolution authorizing an extension of time within which suits may be instituted on behalf of the Cherokee Indians, the Seminole Indians, the Creek Indians, and the Choctaw and Chickasaw Indians to June 30, 1931, and for other purposes; without amendment (Rept. No. 2063). Referred to the Committee of the Whole House on the state of the Union.

Mr. VINSON of Georgia: Committee on Naval Affairs. H. R. 15324. A bill authorizing the attendance of the Marine Band at the Confederate Veterans' reunion to be held at Charlotte, N. C.; with an amendment (Rept. No. 2064). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. H. R. 16034. A bill to authorize the President of the United States to appoint an additional judge of the District Court of the United States for the Middle District of the State of Pennsylvania; without amendment (Rept. No. 2065). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. SPEAKS: Committee on Military Affairs. H. R. 5932. A bill for the relief of Arthur Moffatt, deceased; with an amendment (Rept. No. 2058). Referred to the Committee of the Whole House.

Mr. REECE: Committee on Military Affairs. H. R. 13673. A bill for the relief of John Burket; without amendment (Rept. No. 2059). Referred to the Committee of the Whole House.

Mr. CHAPMAN: Committee on Military Affairs. H. R. 14722. A bill for the relief of Jacob Scott; without amendment (Rept. No. 2060). Referred to the Committee of the Whole House.

Mr. WRIGHT: Committee on Military Affairs. H. R. 14781. A bill for the relief of James D. Poteet; without amendment (Rept. No. 2061). Referred to the Committee of the Whole House.

Mr. HUDSPETH: Committee on Claims. H. R. 3677. A bill for the relief of F. M. Gray, jr. Co.; with an amendment (Rept. No. 2066). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 15287) granting an increase of pension to John H. Jackson; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 14951) granting an increase of pension to Carrie C. Fry; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WOOD: A bill (H. R. 16126) granting the consent of Congress to the commissioners of the county of Lake, State of Indiana, to reconstruct, maintain, and operate a free highway bridge across the Grand Calumet River at a point suitable to the interest of navigation, at or near Cline Avenue, in the cities of East Chicago and Gary, county of Lake, Ind.; to the Committee on Interstate and Foreign Commerce.

By Mr. HALE: A bill (H. R. 16127) to amend the act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1920, and for other purposes"; to the Committee on the Post Office and Post Roads.

By Mr. ROMJUE: A bill (H. R. 16128) to amend the World War adjusted compensation act, as amended; to the Committee on Ways and Means.

By Mr. HOCH: A bill (H. R. 16129) to provide for the acquisition of a site and the construction thereon and equipment of buildings and appurtenances for the Coast Guard Academy; to the Committee on Interstate and Foreign Commerce.

By Mr. HUDSPETH: A bill (H. R. 16130) authorizing an appropriation for the erection of veterinary hospital at Fort Bliss, Tex.; to the Committee on Military Affairs.

By Mr. KELLY: A bill (H. R. 16131) to enable the Postmaster General to make contracts for the transportation of mails by air from island possessions of the United States to foreign countries and to the United States and between such island possessions, and to authorize him to make contracts with private individuals and corporations for the conveyance of mails by air in foreign countries; to the Committee on the Post Office and Post Roads.

By Mr. WURZBACH: A bill (H. R. 16132) to give military rank to certain officers on the retired list of the Army, and for other purposes; to the Committee on Military Affairs.

By Mr. SIROVICH: A bill (H. R. 16133) to amend the national bank act; to the Committee on Banking and Currency.

Also, a bill (H. R. 16134) to amend the classification act of 1923, approved March 4, 1923; to the Committee on the Civil Service.

By Mr. FISH: Joint resolution (H. J. Res. 376) proposing an amendment to the Constitution of the United States for a referendum on war; to the Committee on the Judiciary.

By Mr. CELLER: Joint resolution (H. J. Res. 377) authorizing the erection on public grounds in the District of Columbia of a monument or memorial to Oscar S. Straus; to the Committee on the Library.

PRIVATE BILLS AND RESOLUTIONS

Under clause I of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AUF DER HEIDE: A bill (H. R. 16135) granting an increase of pension to James J. Kadien; to the Committee on Pensions.

By Mr. BEERS: A bill (H. R. 16136) granting a pension to Lydia S. Heiser; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16137) granting an increase of pension to Rachel A. Norris; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16138) granting an increase of pension to Sarah M. Wilson; to the Committee on Invalid Pensions.

Also, A bill (H. R. 16139) granting an increase of pension to Katharine Wallace; to the Committee on Invalid Pensions.

By Mr. CULKIN: A bill (H. R. 16140) for the relief of Peter Christy, jr.; to the Committee on Military Affairs.

By Mr. EVANS of California: A bill (H. R. 16141) granting a pension to Rebecca P. Trester; to the Committee on Pensions.

By Mr. ROY G. FITZGERALD: A bill (H. R. 16142) granting a pension to John Gagen, jr.; to the Committee on Pensions.

By Mr. FREE: A bill (H. R. 16143) for the examination and survey of southern or lower San Francisco Bay and Guadalupe River, Calif., with a view of securing increased depth and width in the channels in bay and river, establishing a harbor, turning basin, piers, wharves, etc., in lower San Francisco Bay; to the Committee on Rivers and Harbors.

By Mr. GAMBRILL: A bill (H. R. 16144) for the relief of Charlotte Hall School; to the Committee on Claims.

By Mr. GARBER: A bill (H. R. 16145) granting a pension to Martha Jane Misner; to the Committee on Invalid Pensions.

By Mr. GARNER of Texas: A bill (H. R. 16146) for the relief of J. N. Lewis; to the Committee on Claims.

By Mr. HALE: A bill (H. R. 16147) granting an increase of pension to Frank G. Nelson; to the Committee on Claims.

By Mr. HASTINGS: A bill (H. R. 16148) granting a pension to Mary R. Proud; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16149) granting a pension to Annie R. C. Owen; to the Committee on Pensions.

By Mr. HUDSPETH: A bill (H. R. 16150) granting a pension to Joseph Farnandis; to the Committee on Pensions.

By Mr. KEARNS: A bill (H. R. 16151) granting an increase of pension to Belle Adams; to the Committee on Invalid Pensions.

By Mr. KEMP: A bill (H. R. 16152) for the relief of Joseph T. Byrne; to the Committee on Claims.

By Mr. LAMPERT: A bill (H. R. 16153) for the relief of William J. Sachse; to the Committee on the Civil Service.

By Mr. LOZIER: A bill (H. R. 16154) granting a pension to Mary E. Beckner; to the Committee on Invalid Pensions.

By Mr. SANDERS of Texas: A bill (H. R. 16155) for the relief of the Farmers & Merchants National Bank of Gilmer, Tex.; to the Committee on Claims.

By Mr. STEELE: A bill (H. R. 16156) granting a pension to James Thompson; to the Committee on Pensions.

By Mr. STRONG of Kansas: A bill (H. R. 16157) granting an increase of pension to Mary A. McCartney; to the Committee on Invalid Pensions.

By Mr. SUMMERS of Washington: A bill (H. R. 16158) granting a pension to Emma W. Rice; to the Committee on Pensions.

By Mr. SWING: A bill (H. R. 16159) granting an increase of pension to David B. Todd; to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 16160) granting an increase of pension to Martha Frances Brown; to the Committee on Invalid Pensions.

By Mr. WHITE of Maine: A bill (H. R. 16161) granting a pension to Julia L. Libby; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

8199. By Mr. BRIGGS: Petition of J. S. Bryce, 3808 Avenue J, Galveston, Tex., and others, opposing reduction of power of all broadcasting stations now using more than 10,000 watts; to the Committee on the Merchant Marine and Fisheries.

8200. By Mr. CULLEN: Petition of the West Point Society of New York, approving and indorsing the bills introduced in the Senate by Senator BLACK (S. 3089), House by Congressman WAINWRIGHT (H. R. 13509), as amended by Congressman McSWAIN; to the Committee on Military Affairs.

8201. By Mr. FITZPATRICK: Petition signed by citizens of the city of Mount Vernon, N. Y., favoring the passage of House Resolution 14676; to the Committee on Pensions.

8202. By Mr. KELLY: Petition of National Beauty and Barbers' Supply Association, asking for enactment of House bill 11, the fair trade bill; to the Committee on Interstate and Foreign Commerce.

8203. By Mr. McCORMACK: Petition of New England Manufacturing Confectioners Association, Olin M. Jacobs, secretary, 40 Court Street, Boston, Mass., recommending a reduction in the tariff on edible gelatin from the present rates of 20 per cent ad valorem and 3½ cents a pound; to the Committee on Ways and Means.

8204. By Mr. MEAD: Petition of Dixie Post, No. 64, Veterans of Foreign Wars of the United States; to the Committee on Pensions.

8205. Also, petition of board of directors of the National Lumber Manufacturers Association; to the Committee on Agriculture.

8206. Also, petition of National Beauty and Barbers Supply Dealers' Association; to the Committee on Interstate and Foreign Commerce.

8207. Also, petition of American Farm Bureau Federation; to Committee on Agriculture.

8208. By Mr. O'CONNELL: Petition of the National Beauty and Barbers Supply Dealers Association of New York, favoring the passage of the Capper-Kelly bill (S. 1418 and H. R. 11), known as the fair trade bill; to the Committee on Interstate and Foreign Commerce.

8209. Also, petition of the Tennessee Association Drainage Districts, Obion, Tenn., favoring the passage of Senate bill 4689, for relief of drainage districts; to the Committee on Irrigation and Reclamation.

SENATE

FRIDAY, *January 11, 1929*

(Legislative day of Monday, January 7, 1929)

The Senate met in open executive session at 12 o'clock meridian, on the expiration of the recess.

The PRESIDING OFFICER (Mr. MCNARY in the chair). The Senate, as in legislative session, will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7729) to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the Vice President:

H. R. 7729. An act to divest goods, wares, and merchandise manufactured, produced, or mined by convicts or prisoners of their interstate character in certain cases;

H. R. 13645. An act to establish two United States narcotic farms for the confinement and treatment of persons addicted to the use of habit-forming narcotic drugs who have been convicted of offenses against the United States, and for other purposes;

H. R. 14473. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois;

H. R. 14474. An act granting the consent of Congress to the city of Aurora, State of Illinois, to construct, maintain, and operate a bridge across the Fox River within the city of Aurora, State of Illinois; and

H. R. 15333. An act granting the consent of Congress to the South Park commissioners and the commissioners of Lincoln Park, separately or jointly, to construct, maintain, and operate a free highway bridge across that portion of Lake Michigan lying opposite the entrance to Chicago River, Ill.; and granting the consent of Congress to the commissioners of Lincoln Park to construct, maintain, and operate a free highway bridge across the Michigan Canal, otherwise known as the Ogden Slip, in the city of Chicago, Ill.

CALL OF THE ROLL

Mr. REED of Missouri. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Frazier	McNary	Shortridge
Barkley	George	Mayfield	Simmons
Bingham	Gerry	Metcalf	Smoot
Black	Glass	Moses	Steck
Blaine	Glenn	Neely	Steiwer
Blease	Goff	Norbeck	Stephens
Borah	Greene	Norris	Swanson
Bratton	Harris	Nye	Thomas, Idaho
Brookhart	Harrison	Oddie	Thomas, Okla.
Broussard	Hastings	Overman	Trammell
Bruce	Hawes	Phipps	Tydings
Burton	Hayden	Pine	Tyson
Capper	Heflin	Pittman	Vandenberg
Caraway	Johnson	Ransdell	Wagner
Copeland	Jones	Reed, Mo.	Walsh, Mass.
Couzens	Kendrick	Reed, Pa.	Warren
Curtis	Keyes	Robinson, Ark.	Waterman
Deneen	King	Robinson, Ind.	Watson
Dill	La Follette	Sackett	Wheeler
Edge	McKellar	Schall	
Fess	McLean	Sheppard	
Fletcher	McMaster	Shipstead	

Mr. NORRIS. I desire to announce that my colleague [Mr. HOWELL] is ill and detained from the Senate for that reason. I ask that this announcement may stand for the day.

Mr. CURTIS. I wish to announce that the senior Senator from Maine [Mr. HALE] is absent on account of illness. I will let this announcement stand for the day.